

119TH CONGRESS
1ST SESSION

S. 2875

To amend the Internal Revenue Code of 1986 to provide for the treatment of health reimbursement arrangements integrated with individual market coverage.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18 (legislative day, SEPTEMBER 16), 2025

Mr. SHEEHY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for the treatment of health reimbursement arrangements integrated with individual market coverage.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Custom Health Option
5 and Individual Care Expense Act” or the “CHOICE Act”.

1 **SEC. 2. TREATMENT OF HEALTH REIMBURSEMENT AR-**
 2 **RANGEMENTS INTEGRATED WITH INDIVIDUAL MARKET COVERAGE.**

4 (a) IN GENERAL.—Section 9815(b) of the Internal
 5 Revenue Code of 1986 is amended—

6 (1) by striking “EXCEPTION.—Notwithstanding
 7 subsection (a)” and inserting the following: “EXCEP-
 8 TIONS.—

9 “(1) SELF-INSURED GROUP HEALTH PLANS.—
 10 Notwithstanding subsection (a)”, and

11 (2) by adding at the end the following new
 12 paragraph:

13 “(2) CUSTOM HEALTH OPTION AND INDIVIDUAL
 14 CARE EXPENSE ARRANGEMENTS.—

15 “(A) IN GENERAL.—For purposes of this
 16 subchapter, a custom health option and indi-
 17 vidual care expense arrangement shall be treat-
 18 ed as meeting the requirements of section 9802
 19 and sections 2705, 2711, 2713, and 2715 of
 20 title XXVII of the Public Health Service Act.

21 “(B) CUSTOM HEALTH OPTION AND INDIVIDUAL
 22 CARE EXPENSE ARRANGEMENTS DE-
 23 FINED.—For purposes of this section, the term
 24 ‘custom health option and individual care ex-
 25 pense arrangement’ means a health reimburse-
 26 ment arrangement—

1 “(i) which is an employer-provided
2 group health plan funded solely by em-
3 ployer contributions to provide payments
4 or reimbursements for medical care subject
5 to a maximum fixed dollar amount for a
6 period,

7 “(ii) under which such payments or
8 reimbursements may only be made for
9 medical care provided during periods dur-
10 ing which the individual is covered—

11 “(I) under individual health in-
12 surance coverage (other than coverage
13 that consists solely of excepted bene-
14 fits), or

15 “(II) under part A and B of title
16 XVIII of the Social Security Act or
17 part C of such title,

18 “(iii) which meets the nondiscrimina-
19 tion requirements of subparagraph (C),

20 “(iv) which meets the substantiation
21 requirements of subparagraph (D), and

22 “(v) which meets the notice require-
23 ments of subparagraph (E).

24 “(C) NONDISCRIMINATION.—

1 “(i) IN GENERAL.—An arrangement
 2 meets the requirements of this subpara-
 3 graph if an employer offering such ar-
 4 rangement to an employee within a speci-
 5 fied class of employee—

6 “(I) offers such arrangement to
 7 all employees within such specified
 8 class on the same terms, and

9 “(II) does not offer any other
 10 group health plan (other than an ac-
 11 count-based group health plan or a
 12 group health plan that consists solely
 13 of excepted benefits) to any employees
 14 within such specified class.

15 In the case of an employer who offers a
 16 group health plan provided through health
 17 insurance coverage in the small group mar-
 18 ket (that is subject to section 2701 of the
 19 Public Health Service Act) to all employees
 20 within such specified class, subclause (II)
 21 shall not apply to such group health plan.

22 “(ii) SPECIFIED CLASS OF EM-
 23 PLOYEE.—For purposes of this subpara-
 24 graph, any of the following may be des-
 25 ignated as a specified class of employee:

1 “(I) Full-time employees.

2 “(II) Part-time employees.

3 “(III) Salaried employees.

4 “(IV) Non-salaried employees.

5 “(V) Employees whose home lo-
6 cation is in the same rating area.

7 “(VI) Employees who are in-
8 cluded in a unit of employees covered
9 under a collective bargaining agree-
10 ment to which the employer is subject
11 (determined under rules similar to the
12 rules of section 105(h)).

13 “(VII) Employees who have not
14 met a group health plan, or health in-
15 surance issuer offering group health
16 insurance coverage, waiting period re-
17 quirement that satisfies section 2708
18 of the Public Health Service Act.

19 “(VIII) Seasonal employees.

20 “(IX) Employees who are non-
21 resident aliens and who receive no
22 earned income (within the meaning of
23 section 911(d)(2)) from the employer
24 which constitutes income from sources

1 within the United States (within the
2 meaning of section 861(a)(3)).

3 “(X) Under such rules as the
4 Secretary may prescribe, employees
5 who are hired for temporary place-
6 ment with an unrelated person that is
7 not the common law employer.

8 “(XI) Employees who are hired
9 in the same date range.

10 “(XII) Such other classes of em-
11 ployees as the Secretary may des-
12 ignate.

13 An employer may designate (in such man-
14 ner as is prescribed by the Secretary) two
15 or more of the classes described in the pre-
16 ceding subclauses as the specified class of
17 employees to which the arrangement is of-
18 fered for purposes of applying this sub-
19 paragraph.

20 “(iii) SPECIAL RULE FOR NEW
21 HIRES.—An employer may designate pro-
22 spectively so much of a specified class of
23 employees as are hired after a date set by
24 the employer. Such subclass of employees

shall be treated as the specified class for purposes of applying clause (i).

“(iv) RULES FOR DETERMINING TYPE OF EMPLOYEE.—For purposes for clause (ii), any determination of full-time, part-time, or seasonal employment status shall be made under rules similar to the rules of section 105(h) or 4980H, whichever the employer elects for the plan year. Such election shall apply with respect to all employees of the employer for the plan year.

“(v) PERMITTED VARIATION.—For purposes of clause (i)(I), an arrangement shall not fail to be treated as provided on the same terms within a specified class merely because the maximum dollar amount of payments and reimbursements which may be made under the terms of the arrangement for the year with respect to each employee within such class—

“(I) increases as additional dependents of the employee are covered under the arrangement, and

“(II) increases with respect to a participant as the age of the partici-

pant increases, but not in excess of an amount equal to 300 percent of the lowest maximum dollar amount with respect to such a participant determined without regard to age.

“(D) SUBSTANTIATION REQUIREMENTS.—

An arrangement meets the requirements of this subparagraph if the arrangement has reasonable procedures to substantiate—

“(i) that the participant and any dependents are, or will be, enrolled in coverage described in subparagraph (B)(ii) as of the beginning of the plan year of the arrangement (or as of the beginning of coverage under the arrangement in the case of an employee who first becomes eligible to participate in the arrangement after the date notice is given with respect to the plan under subparagraph (E) (determined without regard to clause (iii) thereof)), and

“(ii) any requests made for payment or reimbursement of medical care under the arrangement and that the participant and any dependents remain so enrolled.

“(E) NOTICE.—

1 “(i) IN GENERAL.—Except as pro-
 2 vided in clause (iii), an arrangement meets
 3 the requirements of this subparagraph if,
 4 under the arrangement, each employee eli-
 5 gible to participate is, not later than 60
 6 days before the beginning of the plan year,
 7 given written notice of the employee’s
 8 rights and obligations under the arrange-
 9 ment which—

10 “(I) is sufficiently accurate and
 11 comprehensive to apprise the employee
 12 of such rights and obligations, and

13 “(II) is written in a manner cal-
 14 culated to be understood by the aver-
 15 age employee eligible to participate.

16 “(ii) NOTICE REQUIREMENTS.—Such
 17 notice shall include such information as the
 18 Secretary may by regulation prescribe.

19 “(iii) NOTICE DEADLINE FOR CER-
 20 TAIN EMPLOYEES.—In the case of an em-
 21 ployee—

22 “(I) who first becomes eligible to
 23 participate in the arrangement after
 24 the date notice is given with respect
 25 to the plan under clause (i) (deter-

1 mined without regard to this clause),
 2 or
 3 “(II) whose employer is first es-
 4 tablished fewer than 120 days before
 5 the beginning of the first plan year of
 6 the arrangement,
 7 the requirements of this subparagraph
 8 shall be treated as met if the notice re-
 9 quired under clause (i) is provided not
 10 later than the date the arrangement may
 11 take effect with respect to such em-
 12 ployee.”.

13 (b) INCLUSION OF CHOICE ARRANGEMENT PER-
 14 MITTED BENEFITS ON W-2.—

15 (1) IN GENERAL.—Section 6051(a) of such
 16 Code is amended by striking “and” at the end of
 17 paragraph (18), by striking the period at the end of
 18 paragraph (19) and inserting “, and”, and by insert-
 19 ing after paragraph (19) the following new para-
 20 graph:

21 “(20) the total amount of permitted benefits for
 22 enrolled individuals under a custom health option
 23 and individual care expense arrangement (as defined
 24 in section 9815(b)(2)) with respect to such em-
 25 ployee.”.

1 (c) TREATMENT OF CURRENT RULES RELATING TO
2 CERTAIN ARRANGEMENTS.—

3 (1) NO INFERENCE.—To the extent not incon-
4 sistent with the amendments made by this section—

5 (A) no inference shall be made from such
6 amendments with respect to the rules pre-
7 scribed in the Federal Register on June 20,
8 2019, (84 Fed. Reg. 28888) relating to health
9 reimbursement arrangements and other ac-
10 count-based group health plans, and

11 (B) any reference to custom health option
12 and individual care expense arrangements shall
13 for purposes of such rules be treated as includ-
14 ing a reference to individual coverage health re-
15 imbursement arrangements.

16 (2) OTHER CONFORMING OF RULES.—The Sec-
17 retary of the Treasury, the Secretary of Health and
18 Human Services, and the Secretary of Labor shall
19 modify such rules as may be necessary to conform
20 to the amendments made by this section.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to plan years beginning after De-
23 cember 31, 2025.

1 **SEC. 3. PARTICIPANTS IN CHOICE ARRANGEMENT ELIGI-**
 2 **BLE FOR PURCHASE OF EXCHANGE INSUR-**
 3 **ANCE UNDER CAFETERIA PLAN.**

4 (a) IN GENERAL.—Section 125(f)(3) of the Internal
 5 Revenue Code of 1986 is amended by adding at the end
 6 the following new subparagraph:

7 “(C) EXCEPTION FOR PARTICIPANTS IN
 8 CHOICE ARRANGEMENT.—Subparagraph (A)
 9 shall not apply in the case of an employee par-
 10 ticipating in an custom health option and indi-
 11 vidual care expense arrangement (within the
 12 meaning of section 9815(b)(2)) offered by the
 13 employee’s employer.”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 2025.

17 **SEC. 4. EMPLOYER CREDIT FOR CHOICE ARRANGEMENT.**

18 (a) IN GENERAL.—Subpart D of part IV of sub-
 19 chapter A of chapter 1 of the Internal Revenue Code of
 20 1986 is amended by adding at the end the following new
 21 section:

22 **“SEC. 45BB. EMPLOYER CREDIT FOR CHOICE ARRANGE-**
 23 **MENT.**

24 “(a) IN GENERAL.—For purposes of section 38, in
 25 the case of an eligible employer, the CHOICE arrange-
 26 ment credit determined under this section for any taxable

1 year is an amount, with respect to each employee enrolled
 2 during the credit period in a CHOICE arrangement main-
 3 tained by the employer, equal to—

4 “(1) \$100 multiplied by the number of months
 5 for which the employee is so enrolled during the first
 6 year in the credit period, and

7 “(2) one-half of the dollar amount in effect
 8 under paragraph (1) for the taxable year, multiplied
 9 by the number of months for which the employee is
 10 so enrolled during the second year of the credit pe-
 11 riod.

12 “(b) ARRANGEMENT MUST CONSTITUTE MINIMUM
 13 ESSENTIAL COVERAGE.—An employee shall not be taken
 14 into account under subsection (a) unless such employee’s
 15 eligibility for the CHOICE arrangement (determined with-
 16 out regard to the employee being enrolled) would cause
 17 the employee to be treated under section 36B(c)(2) as
 18 being eligible for minimum essential coverage consisting
 19 of an eligible employer-sponsored plan (as defined in sec-
 20 tion 5000A(f)(2)).

21 “(c) DEFINITIONS.—For purposes of this section—

22 “(1) CHOICE ARRANGEMENT.—The term
 23 ‘CHOICE arrangement’ means a custom health op-
 24 tion and individual care expense arrangement (as de-
 25 fined in section 9815(b)(2)(B)).

1 “(2) CREDIT PERIOD.—The credit period with
 2 respect to an eligible employer is the first 2 one-year
 3 periods beginning with the month during which the
 4 employer first establishes a CHOICE arrangement
 5 on behalf of employees of the employer.

6 “(3) ELIGIBLE EMPLOYER.—The term ‘eligible
 7 employer’ means, with respect to any taxable year
 8 beginning in a calendar year, an employer who is not
 9 an applicable large employer for the calendar year
 10 under section 4980H.

11 “(d) INFLATION ADJUSTMENT.—

12 “(1) IN GENERAL.—In the case of any taxable
 13 year beginning in a calendar year after 2026, the
 14 dollar amount in subsection (a) shall be increased by
 15 an amount equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
 18 mined under section 1(f)(3) for the calendar
 19 year in which such taxable year begins by sub-
 20 stituting ‘calendar year 2025’ for ‘calendar year
 21 2016’ in subparagraph (A)(ii) thereof.

22 “(2) ROUNDING.—If any amount after adjust-
 23 ment under paragraph (1) is not a multiple of \$10,
 24 such amount shall be rounded to the next lower mul-
 25 tiple of \$10.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS

2 CREDIT.—Section 38(b) of such Code is amended by strik-
 3 ing “plus” at the end of paragraph (40), by striking the
 4 period at the end of paragraph (41) and inserting “, plus”,
 5 and by adding at the end the following new paragraph:

6 “(42) the CHOICE arrangement credit deter-
 7 mined under section 45BB(a).”.

8 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 9 IMUM TAX.—Section 38(c)(4)(B) of such Code is amend-
 10 ed—

11 (1) by redesignating clauses (x), (xi), and (xii)
 12 as clauses (xi), (xii), and (xiii), respectively, and

13 (2) by inserting after clause (ix) the following
 14 new clause:

15 “(x) the credit determined under sec-
 16 tion 45BB,”.

17 (d) CLERICAL AMENDMENT.—The table of sections
 18 for subpart D of part IV of subchapter A of chapter 1
 19 of such Code is amended by adding at the end the fol-
 20 lowing new item:

“Sec. 45BB. Employer credit for CHOICE arrangement.”.

21 (e) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years beginning after
 23 December 31, 2025.

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