

**Congress of the United States**  
**Washington, DC 20515**

April 3, 2024

The Honorable Daniel Werfel  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Dear Commissioner Werfel,

The American people are facing worse health outcomes despite massive increases in healthcare spending. Over 66% of American adults are obese or overweight.<sup>1</sup> Type 2 diabetes has risen exponentially and more than half of American adults have prediabetes. Of the approximately 4.1 trillion spent on healthcare per year, 90% is spent on people with chronic and mental health conditions.<sup>2</sup> The status quo is unacceptable and there must be a dramatic change.

Health Saving Accounts (HSA) are part of the solution to incentivize better health outcomes. An HSA lets patients put aside money on a pre-tax basis to pay for qualified medical expenses.<sup>3</sup> Additionally, an HSA makes it easier to spend money on preventative measures to improve health before getting sick. There are currently too many rules in place limiting the effectiveness of an HSA, including requiring them to be linked to a high-deductible health plan. Under your leadership, the Internal Revenue Service (IRS) is making it even more difficult for Americans to utilize an HSA to its full potential.

Specifically, the IRS continues to prevent HSA dollars from going toward direct primary care arrangements (DPC arrangement). The IRS views a DPC arrangement as other health coverage, such as a health plan or insurance, but only for eligibility rules for HSA in the Internal Revenue Code. Under current IRS interpretation, this results in an individual covered by a DPC arrangement as ineligible to fund an HSA because a DPC arrangement is interpreted as “other health coverage”, instead of medical care. This is a dated and wrong interpretation of a DPC arrangement, which the IRS must update. Since 2007, laws and regulations passed at the federal and state level have consistently interpreted payments for DPC arrangements as expenditures for primary care medical services, not health coverage, or insurance.

DPC arrangement is an innovative model that allows for more personalized care and reduces bureaucracy. Specifically, a DPC arrangement typically charges patients a periodic fee, does not bill third parties on a fee-for-service basis for services provided, and any visit fee charged by the

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<sup>1</sup> <https://www.healthline.com/health/obesity-facts#social-factors>

<sup>2</sup> <https://www.cdc.gov/chronicdisease/about/costs/index.htm>

<sup>3</sup> <https://www.healthcare.gov/glossary/health-savings-account-hsa/>

provider must be less than the monthly equivalent of the periodic fee.<sup>4</sup> Evidence indicates that a DPC arrangement leads to a reduction in healthcare utilization, including emergency department usage, hospitalization rates, and unnecessary diagnostic tests, all of which lead to lower health care costs. Moreover, this arrangement improves the doctor-patient relationship and increases morale among doctors. As the former Montana Commissioner of Securities and Insurance, I expanded DPC arrangements throughout the state. By preventing HSA dollars from going towards a DPC arrangement, the IRS is making this innovative option unaffordable for most Americans.

I am also concerned about recent statements by you and an IRS spokesman that muddies the waters on the ability to use HSA dollars on medically necessary food and exercise.<sup>5</sup> By stating that a patient can only obtain the letter of medical necessity from a face-to-face interaction with a doctor, you are making it harder for rural Americans to use their HSA to purchase medically necessary food or exercise plans. This also goes against official IRS guidance, which says that HSA dollars can go towards food, or beverages purchased if the food or beverages does not satisfy normal needs, alleviates, or treats an illness, and is substantiated by a physician through a letter of medical necessity.<sup>6</sup> The IRS has no business interfering with how a medical doctor obtains information from a patient.

Our nation is currently facing a health crisis that the IRS is complicit in. While I understand you cannot waive a magic wand and fix all our problems, you do have the power to incentivize better health outcomes. Thanks for your attention to my request, and I eagerly await your reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew M. Rosendale, Sr.", with a stylized flourish at the end.

Matthew M. Rosendale, Sr.  
Member of Congress

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<sup>4</sup><https://static1.squarespace.com/static/54c15fbce4b06765d7d750d5/t/6542efa6bf7abf38789240b2/1698885543095/Montana+DPC+Insurance+Commissioner+Memo.pdf>

<sup>5</sup> <https://www.washingtonpost.com/wellness/2024/03/06/irs-hsa-fsa-eligible-food/>

<sup>6</sup> <https://www.irs.gov/individuals/frequently-asked-questions-about-medical-expenses-related-to-nutrition-wellness-and-general-health>