

August 10, 2020

Sunita Lough, Deputy Commissioner for Services and Enforcement
CC:PA:LPD:PR (REG-109755-19), Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: **REG-109755-19** - Certain Medical Care Arrangements; published at Vol. 85, No. 112 Federal Register 35398-35404 on June 10, 2020.

Submitted electronically via <http://www.regulations.gov>

Dear Deputy Commissioner Lough,

UnityPoint Health (“UPH”) appreciates the opportunity to provide comment on the proposed regulations relating to section 213 of the Internal Revenue Code (Code) regarding the treatment of amounts paid for certain medical care arrangements, including Direct Primary Care arrangements, health care sharing ministries, and certain government-sponsored health care programs. The proposed regulations affect individuals who pay for these arrangements or programs and want to deduct the amounts paid as medical expenses under section 213. UPH is one of the nation’s most integrated healthcare systems. Through more than 32,000 employees and our relationships with more than 400 physician clinics, 40 hospitals in metropolitan and rural communities and 16 home health agencies throughout our 9 regions, UPH provides care throughout Iowa, central Illinois and southern Wisconsin. On an annual basis, UPH hospitals, clinics and home health provide a full range of coordinated care to patients and families through more than 7.9 million patient visits.

UPH appreciates the time and effort of the Department of the Treasury and the Internal Revenue Service (IRS) in developing these proposed regulations and respectfully offers the following comments. We will limit our comments to Direct Primary Care arrangements as well as a requested expansion of flexibilities to onsite employer clinics.

GENERAL COMMENTS

The IRS proposes to recognize payment for certain medical care arrangements, including direct primary care arrangements, as medical expenses and permits those payments to be deducted under section 213 of the Code.

Comment: In 2016, UnityPoint Health – Junction Medical, located in Peoria, Illinois, was launched as UPH’s first direct primary care clinic. This innovative concept in medicine provides a full spectrum of health and wellness services for a monthly fee without billing insurance and squarely falls within the Direct Primary Care arrangements being proposed. Under this model, Junction Medical has fewer patients. That means physicians have more time to coordinate care, with opportunities to provide support to patients outside of the scheduled appointment time. This model makes access easier for patients. Same-day appointments are available, and physicians are accessible to their patients by phone or e-mail. We believe that the Direct Primary Care model represents a return to personalized care, appropriately focuses on wellness and prevention, and enables insurance to aptly target health care events outside primary care.

What’s more is that patients benefit from Direct Primary Care arrangements. Empirical studies¹ indicate promising outcomes, which include:

- 35% fewer hospitalizations;
- 65% fewer Emergency Department visits;
- 66% fewer specialist visits;
- 82% fewer surgeries;
- 30% reduction in overall health care costs.

These outcomes are combined with heightened patient satisfaction.² At Junction Medical, patient satisfaction is echoed by our patients. Among the testimonials, a Medical Junction patient stated, "I made an appointment to establish a relationship with a doctor, but I quickly found a true partner in improving and maintaining my health."³

Despite the enthusiasm of UPH, our providers and our patients, the Direct Primary Care model has not experienced the anticipated uptake in large part due to the treatment of Direct Primary Care arrangements under the provisions of the Code that deal with health savings accounts (HSAs). ***We applaud the general intent of this proposed rule, which is to permit HSAs to be used to make payments for Direct Primary Care memberships, and request further expansion as described in this letter.***

DEFINITION OF DIRECT PRIMARY CARE ARRANGEMENT

The IRS proposes to define a “primary care physician” as an individual who is a physician (as described in section 1861(r)(1) of the Social Security Act (SSA)) who has a primary specialty designation of family medicine, internal medicine, geriatric medicine, or pediatric medicine. Comments are sought on the appropriateness of this definition, whether to expand the arrangement to include care by non-physician practitioners, and whether to clarify arrangements that do not qualify.

¹ McCorry, Daniel. “Direct Primary Care: An Innovative Alternative to Conventional Health Insurance.” The Heritage Foundation Backgrounder. No. 2939. Aug 6, 2014; and Chase, Dave. “While Health Insurers Sleep, Nationwide Enters Health Insurance Market.” Forbes.com. 9 Sep 2013. Web. 21 Apr 2015 – referencing a 2013 California Healthcare Foundation report citing Paladina Health cost reduction outcomes

² PRNewswire. “New Primary Care Model Delivers 20 Percent Lower Overall Healthcare Costs, Increases Patient Satisfaction and Delivers Better Care.” PRNewswire.com, 15 Jan 2015. Web. 18 Feb 2015. – referencing a national ranking of greater than the 95th percentile in general patient satisfaction.

³ More information on this patient story is found at <https://www.unitypoint.org/peoria/patient-stories.aspx>

Comment: UnityPoint Health supports the proposed definition of primary care physician as well as the expansion of the Direct Primary Care arrangement to include Advanced Practice Providers - nurse practitioner, clinical nurse specialist, or physician assistant (as those terms are defined in section 1861(aa)(5) of the Social Security Act) who provides primary care services under the contract. In addition, the IRS should consider patient-centered medical home members, such as diabetic educators and mental health professionals, as non-physician practitioners within Direct Primary Care arrangements to enable flexibility and team-based care delivery.

UnityPoint Health also urges the IRS to consider enabling more flexibility for employers to engage in health care arrangements similar to Direct Primary Care arrangements. In particular, on-site employee clinics are of interest to self-insured employers as levers to address health care cost (via preventive and wellness activities) as well as a means to offer convenient, customized benefits which promote employee satisfaction. On-site employer clinics offering the following services are similar to a Direct Primary Care arrangement and should not be considered insurance:

- Primary care including physical examination.
- Immunizations, including injections of antigens provided by employees.
- Drugs or biologicals other than a prescribed drug (as such term is defined in section 213(d)(3)).
- Treatment for injuries occurring in the course of employment.
- Tests for conditions or infectious diseases.
- Management of medically complex chronic conditions.
- Drug testing.
- Hearing or vision screenings and related services.
- Other similar items and services.

It is illogical to think that insurance status is triggered for a similar contract and benefits when an employer, instead of an employee, is paying for this service.

DIRECT PRIMARY CARE ARRANGEMENTS, HEALTH REIMBURSEMENT ARRANGEMENTS (HRAs), AND HSAs

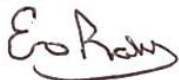
The IRS proposes that an HRA, including a qualified small employer health reimbursement arrangement, an HRA integrated with a traditional group health plan, an HRA integrated with individual health insurance coverage or Medicare (individual coverage HRA), or an excepted benefit HRA, may reimburse expenses for Direct Primary Care arrangement fees. For HSAs, the IRS proposes limited circumstances in which an individual is not precluded from contributing to an HSA solely due to participation in the Direct Primary Care arrangement – (1) when coverage under a health plan or insurance (for example, the arrangement solely provides for an anticipated course of specified treatments of an identified condition) is not covered or (2) when coverage under a health plan or insurance solely provides for disregarded coverage or preventive care (for example, it solely provides for an annual physical examination).

Comment: UnityPoint Health understands that the IRS is confined by statute; however, we appreciate any movement or creative solutions to enable Direct Primary Care arrangements to be more fully realized. Direct Primary Care arrangements target needed wellness, health management and preventative care and are distinguishable from risk-based and/or unexpected acute and emergent care amenable to insurance

arrangements. Direct Primary Care arrangements are contractual arrangements for patient-centered care and should not be considered as health insurance or a health plan. That said, **UnityPoint Health wholeheartedly supports the proposed change to enable HRAs to reimburse expenses for Direct Primary Care arrangement fees. As for HSAs, we believe this regulation is directionally correct, but it does not go far enough to support consumers choice of care delivery.** While we appreciate that individuals with a high deductible health plan and a separate plan for prescriptions who have met their deductible would be able to use their HSAs for Direct Primary Care payments, we believe that consumers should have greater input into how to use the proceeds in these accounts. First, we do not agree that meeting plan deductibles should be a precursor or threshold to HSA use for Direct Primary Care arrangements. Individuals with high-deductible plans should in fact be encouraged to spend this savings on preventive and wellness care. Second, we do not agree that Direct Primary Care arrangements should be characterized as insurance when those payments are made by an employer – payments by either an employee or employer should be treated equally. Again, we want to reiterate our support for this first step in removing Code barriers for Direct Primary Care arrangements and ultimately enabling broader consumer health care choices.

We are pleased to provide input on these proposed regulations. To discuss our comments or for additional information on any of the addressed topics, please contact Cathy Simmons, Government & External Affairs at Cathy.Simmons@unitypoint.org or 319-361-2336.

Sincerely,



Eric Rahn
Director of Clinic Operations



Brain Jones
VP, Payor Innovation



Cathy Simmons, JD, MPP
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