

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1208

2005 HOUSE HUMAN SERVICES

HB 1203

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1208

House Human Services Committee

☐ Conference Committee

Hearing Date Jan. 12, 2005

Tape Number	Side A	Side B	Meter #
#1	x		#617-2846

Committee Clerk Signature



Minutes:

Chairman Price opened the hearing on HB 1208. All members were present.

Rep. Carlsen: Appeared in favor of HB 1208. When the Federal Govt. was changing regulations to allow health savings accounts, ND had some laws in the way, that would prohibit us from doing that and had to deal with mandates. Commissioner Poolman will explain that. This bill basically removes the mandates to allow the option to that. With the rising cost of health care, we want to be able to give as many options to our citizens as we can.

Chairman Price: To your knowledge, is this the only mandate that stands in the way?

Rep. Carlsen: I had council go through this and this is the one that they found, it was a mental health one I believe, that was in the way of that, so this should clear it up.

Jim Poolman, ND Insurance Commissioner appeared in favor of the bill.

See Attached testimony:

Chairman Price: These mandates were never attached to individual policies, were they?

Commissioner Poolman: No.

Rep. Kreidt: Does this still allow an employee to have a regular savings account.

Commissioner Poolman: That is correct, it can be paired with other flex plans that you may already have.

Rep. Sandvig: If these mandates are waived, does that mean that individuals will have to pay the deductibles out of their own pockets, for the first amount?

Comm. Poolman: Yes, under the mandates, it provides first dollar coverage, and if the mandates are waived, then those specific dollar amounts for the first visit would be paid out of pocket, only if you are under the high deductible plan, this makes no change by the way, to a fully insured plan and the mandates that are required under a fully insured plan. If an employer chooses to use a health savings account, to provide that for their employees, that is when the deductibles and the mandates would be waived.

Rep. Potter: I am not quite clear about the hang up on these two mandates, why it necessarily needs to be changed.

Comm. Poolman: I like to refer to the 2nd page of my testimony for your explanation. I have provided you with my testimony, a list of frequently asked questions for your information.

Rep. Kaldor: How does HSA's (Health Saving Acct's) operate in terms such as if a group has a high deductible plan, what happens when that HSA is exhausted.

Comm. Poolman: Once the \$2000.00 is exhausted, you have hit the point that the insurance plan will kick in.

Rep. Kaldor: You have to build up deductible from 0- in account?

Comm. Poolman: I do not know the actual mechanics of payroll deductions, in some plans you can withdraw earlier rather than if you have a payroll deduction, I assume you could possibly do that.

Rep. Devlin: What happens if they don't use the \$2000, can they roll it over into the next year?

Comm Poolman: Yes, those dollars roll over and can continue to build and once a person reaches 65, that person can use that for other than medical expenses. That is one of the benefits in putting money away every year, is that you get tax preferential treatment.

Rep. Kaldor: Can it be rolled over into an IRA?

Comm Poolman: Not that I know. Web site: www.hsainsider.com.

Rod St. Aubin, Representative, Blue Cross Blue Shield. (MR #1795)

We do support this bill. To give you background with this, it is part of the Medicare Modernization Act and it was a great idea, so it was passed and then many states realized some mandates that require first dollar coverage. So Dept. of Treasury had to write rules to allow for states to offer for this product. So they allow for this transition period, which is basically allowing states to violate the actual law, until Leg's. meet and decide whether or not they want to change the laws so they can offer the HSA products. I want to mention, we already offer high deductible health plans, however they would not be eligible for the HSA, because we do provide coverage before you meet your goal high deductible set amount. The mental health, substance abuse mandate, the first 5 visits are provided without CO-pay or deductible. This does allow for a tremendous amount of flexibility, we have had several employer groups that have inquired about it. We are still wondering about how popular it will be. One of the benefits of the HSA, the flexibility, it can be a situation with individual employee can contribute, or it can be a

combination employee/employer or totally the employer. HSA is really separate from the high deductible health plan. The individual can contract with one agency for high deductible plan and another for HSA. If they leave an employer, the money is portable and can go with them. You can put the maximum amount into the account, it can be used at a later age, for medical expenses to the age 65, and it is not taxable.

Rep. Nelson: I like the idea that the individual has ownership, and can regulate and follow the cost controls and billings. If we remove the mandates, what savings do you see?

R. St. Aubin: Remember you are eliminating the first dollar coverage, so the cost factor does not really come into play here. The big part is the high deductible amount. Some exceptions for medical reasons, wellness benefits, but most will be paying the deductible right away.

Dan Ulcer, Blue Cross/Blue Shield:

During the first five visits, we are encouraging individuals to seek care earlier, this is done for no charge. The history is that when managed care was implemented in the mid 90's, we wanted to be able to move the deductibles around, so that you have some great sense of cost. The tradeoff was, that was to encourage individuals to seek care earlier. We went to the IRS, to ask how does this fit in ND, we see it as a preventive measure, but they did not agree. This is the reason for this bill, as this mandate needs to be removed, to enable HMS to be established.

Rep. Nelson: From a national standpoint, I am guessing that every state has its own mandate structure. Is it being accommodation being requested, and delivered and HMS become a marketplace option?

R. St. Aubin: Yes, there are several states that have mandates that require first dollar coverage on them. Initially they were just going to give a one year transitional period, so because of two

year legislative sessions, a two year transitional period was allowed. All states, I believe, are attempting to clear this up to make way for HSA's.

Rep. Kreidt: Is this at all tax deductible. (MR# 2460)

R. St. Aubin: You are basically sheltering all the money that you put in from taxes. This rolls over and you also earn your own interest.

Rep. Kreidt: Interest is paid on this account then, and what % and how is that determined?

R. St. Aubin: Yes, that depends upon who ever you go to for your HSA, its basically, banking institutions, credit unions, etc..

Comm. Poolman: That is covered by the sheet with "Frequently asked questions".

R. St. Aubin: It is also part of the competition. Health Insurers are not allowed to actual be the HSA. They can offer the high deductible plan. They are two separate entities.

Chairman Price: Anyone else to testify in favor? Opposed? Close hearing.

Rep. Uglem: Move a Do Pass on 1208. **Rep. Weisz:** 2nd. **Vote:** 12-0-0.

Carrier: Rep. Uglem.

Roll Call Vote #: 1

House Human Services Committee

Legislative Council Amendment Number

Motion Made By Rep. Uglem Seconded By Rep. Weisz

Total	Yes: 12	No	0
Absent			0

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 12, 2005 10:18 a.m.

Module No: HR-07-0327
Carrier: Uglem
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1208: Human Services Committee (Rep. Price, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1208 was placed on the
Eleventh order on the calendar.

2005 SENATE HUMAN SERVICES

HB 1208

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1208

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 1, 2005

Tape Number	Side A	Side B	Meter #
1		x	1590-2800

Committee Clerk Signature



Minutes:

Chairman Lee opened the public hearing on HB 1208. All members were present.

This bill relates to excluding high-deductible health plans from mental health and substance abuse mandates in order to meet federal requirements for tax qualification of health savings accounts.

Testimony in favor of the bill

Jim Poolman, North Dakota Insurance Commissioner. See written testimony (Attachment 1)

Wayne Nelson, President Communicating for Agriculture and the Self-employed (CA). See written testimony (Attachment 2)

Sen. Warner: Can long-term care insurance premiums be taken out of these accounts?

Nelson: There are several ways that qualified medical expenses can be used under these accounts. One is long-term care insurance, but it's under the same rules as it would be if you itemized deductions and used long-term care so the brackets of age and amount of money each

year that you could deduct for premiums is still in force for health savings accounts than it would be for itemizing deductions. There are different brackets for different ages. For example, if you're 40 years old you couldn't deduct the entire premium cost for the long-term care. As a qualified medical expense, you can use it to pay COBRA, you can use it to pay your actual health plan if you're receiving unemployment, Medicare Plus Choice premiums, but not regular Medigap premiums. This is all spelled out in a handout. (Attachment 2A)

There was no further testimony on this bill. Chairman Lee closed the public hearing.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1208

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 7, 2005

Tape Number
1

Side A

Side B
X

Meter #
44.1 - 47.6

Committee Clerk Signature



Minutes:

Senator Judy Lee, Chairman of the Senate Human Services Committee opened the committee work on HB 1208 relating to excluding high-deductible health plans from mental health and substance abuse mandates in order to meet federal requirements for tax qualification of health savings accounts.

All members of the committee were present.

Senator Lee reviewed the testimony from the public hearing on HB 1208.

Senator Richard Brown made a motion for a Do Pass of HB 1208.

Senator Dick Dever second the motion.

No further discussion was held.

Roll call vote for a Do Pass of HB 1208 was taken indicating 5 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

Senator Brown will carry HB 1208.

Date: 3-7-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1208

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By *Sen Brown* Seconded By *Sen Dever*

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0
Floor Assignment *Sen. Brown*

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 7, 2005 4:08 p.m.

Module No: SR-41-4322
Carrier: Brown
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1208: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1208 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1208



DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

Jim Poolman
Commissioner of Insurance

HOUSE BILL NO. 1208

Presented by: Jim Poolman
Insurance Commissioner

Before: House Human Services Committee
Representative Clara Sue Price, Chair

Date: January 12, 2005

TESTIMONY

Madam Chair and members of the Committee:

In 2003, President Bush signed into law legislation that grants healthcare consumers the ability to purchase Health Savings Accounts, or HSAs. HSAs are intended to reward people for being smarter and more frugal health care consumers by giving them preferential tax treatment on contributions to their HSA.

The theory behind HSAs is that people will make smarter healthcare decisions when they feel they are spending their "own money" to purchase their healthcare. Too often, people don't feel that way today, as long as an insurance company is paying for their health care, they feel free to use the emergency room as their walk-in clinic, and do not hesitate to demand the latest and greatest in drugs they have seen advertised on television. Consumers truly should and hopefully will feel that they are spending their own money when they pay medical expenses from a Health Savings Account. In turn, this will make us all smarter healthcare consumers.

The hope is that Americans will become more cost-conscious in purchasing their health care, that this will lead to containment in healthcare expenditures, and that this will provide a healthy alternative in a health care and insurance marketplace that is seeing rapidly escalating costs.

An HSA has the feel of being the consumer's own money, more than any previous medical savings account or flexible savings account. HSAs are similar to IRAs, in that unspent funds accumulate and grow in the account from year to year, tax deferred. They may be withdrawn at any time to pay medical expenses (including the high deductible policy premiums), or even long term care insurance premiums. At age 65, the funds may be withdrawn for any purpose at all, not merely to pay for medical

expenses. Prior to age 65, the funds may be withdrawn for non-medical purposes, subject however to taxes and penalties.

When we talk about an HSA, we are not just talking about a savings account. In order for a savings account to qualify as a Health Savings Account for favorable tax treatment, the savings account must be coupled with a High-deductible health plan – intended to insure against catastrophic healthcare claims. The acronym “HSA” is typically used as shorthand for the entirety of the package, but it is important to understand we are talking about two separate products: the savings account itself and the accompanying high-deductible insurance policy.

In fact, the issue before us today relates not to the savings account aspect of the HSA, but to the high-deductible health plan – typically, a high-deductible health insurance policy.

A high deductible health plan is one that has at least a \$1000 deductible for an individual, or \$2000 deductible for a family. Congress permits the deductible to be waived in some circumstances, such as for preventive screenings, but these circumstances are very limited.

What happens, then, when a health insurance mandate requires deductibles to be waived?

In North Dakota, we have a pair of mandates that require every group health insurance policy to provide first-dollar claims payments. Under the federal requirements, providing these first-dollar benefits, without imposing the \$2000 deductible, would disqualify the policy from being considered a high-deductible health plan. In other words, under the existing law, we will not be able to sell HSAs in North Dakota in the group market, because every group policy is required to provide first dollar benefits under these mandates.

The two mandates are NDCC section 26.1-36-08(2)(d), which requires deductibles to be waived for the first five out-patient treatments for substance abuse, and NDCC section 26.1-36-09(2)(f)(4), which requires deductibles to be waived for the first five hours of outpatient mental illness treatment. These mandates apply to all group policies (not individual policies).

The objective of HB 1208 is simply to carve-out HSA-qualified high deductible health insurance policies from the group health insurance mandates requiring first-dollar coverage for mental health and substance abuse.

I support these mandates. I support early intervention in mental health and substance abuse situations. That is why I have worked with the North Dakota Mental Health Association to arrive upon a very limited exception to the mandated benefits that everyone can be comfortable with. Together, we believe this change represents good public policy.

Poolman, Jim A.

From: Fix, Michael L.
Sent: Tuesday, January 11, 2005 4:32 PM
To: Poolman, Jim A.
Cc: Holloway, Doug L.
Subject: HSA Questions

1. What is the maximum somebody can put away in an HSA?

You can contribute up to the amount of the deductible, subject to a cap of \$5,250 for family and \$2,650 for self-only. (These levels are indexed to inflation.) For individuals age 55 and over, there is a "catch-up" provision which allows an additional contribution, \$600 in 2005, regardless of the amount of the deductible or the cap. Once a person has enrolled in Medicare, they can no longer make any contributions to their HSA.

2. Who typically administers the HSA? (a TPA?)

Insurance companies, banks, credit unions, and any other entity that meets the IRS standards for being an IRA trustee or custodian can be an HSA trustee or custodian. Some insurance companies offer only the high-deductible health plan, and either partner with a bank to be the custodian of the HSAs or leave it to the individual to find a qualified trustee/custodian with whom to open an account. Typical investments are bank accounts, annuities, CD's, stocks, bonds, mutual funds.

3. What has the marketplace been like for individual purchases of HSAs?

I have not yet received a number from Assurant Health, the only company currently offering the HSA in North Dakota, as to the numbers for North Dakota. On a national basis, Assurant Health is reporting large numbers... over 56,000 individual policies sold.

John Alden 70

4. How many companies are selling HSAs in the marketplace now?

Currently, 6 companies have high deductible health products approved in North Dakota:

- a. Assurant Health – Individual market only; offers both insurance and the HSA account.
- b. John Alden – Individual market only; offers both insurance and the HSA account.
- c. United Healthcare – large group only; offers both insurance and the HSA account.
- d. Cigna Healthcare – large group only; offers only insurance; not the HSA account.
- e. UNICARE – large group only; offers only insurance; not the HSA account.
- f. Great West Healthcare – small group and large group; offers both insurance and the HSA account.

The reason companies are able to sell in the group market today is because the Treasury Department issued guidance providing that state mandates (such as ours) will be permitted in high-deductible plans until January 1, 2006. The express intent was to give the states time to make changes in their state laws; to carve out HSA-High Deductible plans from those first-dollar mandates. We believe once this mandate issue is resolved, more companies will enter the market; likewise, as HSAs become more prevalent, more financial institutions will administer HSAs.

HOUSE BILL NO. 1208

Presented by: Jim Poolman
Insurance Commissioner

Before: Senate Human Services Committee
Senator Judy Lee, Chairman

Date: March 1, 2005

TESTIMONY

Madam Chair and members of the Committee:

In 2003, President Bush signed into law legislation to grant healthcare consumers the ability to purchase Health Savings Accounts, or HSAs. HSAs are intended to reward people for being smarter and more frugal health care consumers by giving them preferential tax treatment on contributions to their HSA.

The theory behind HSAs is that people will make smarter healthcare decisions when they feel they are spending their "own money" to purchase their healthcare. Too often, people don't feel that way today, as long as an insurance company is paying for their health care, they feel free to use the Emergency Room as their walk-in clinic, and do not hesitate to demand the latest and greatest in drugs they have seen advertised on television. Making no difference that they do not suffer from the ailment the drug is intended to alleviate.

The hope is that Americans will become more cost-conscious in purchasing their health care, that this will lead to containment in healthcare expenditures, and that this will provide a healthy alternative in a health care and insurance marketplace that is seeing rapidly escalating costs.

An HSA has the feel of being the consumer's own money, more than any previous medical savings account or flexible savings account. HSAs are similar to IRAs, in that unspent funds accumulate and grow in the account from year to year, tax deferred. They may be withdrawn at any time to pay medical expenses or even long term care insurance premiums. At age 65, the funds may be withdrawn for any purpose at all, not merely to pay for medical expenses. Prior to age 65, the funds may be withdrawn for non-medical purposes, subject however to taxes and penalties. Consumers truly should and do feel that they are spending their own money when they pay medical expenses from a Health Savings Account; in turn, this will make us all smarter healthcare consumers.

When we talk about an HSA, we are not just talking about a savings account. In order for a savings account to qualify as a Health Savings Account for favorable tax treatment, the savings account must be coupled with a High-deductible health plan – intended to insure against catastrophic healthcare claims. The acronym “HSA” is typically used as shorthand for the entirety of the package, but it is important to understand we are talking about two separate products: the savings account itself and the accompanying high-deductible insurance policy.

In fact, the issue before us today relates not to the savings account aspect of the HSA, but to the high-deductible health plan – typically, a high-deductible health insurance policy.

A high deductible health plan is one that has at least a \$1000 deductible for an individual, or \$2000 deductible for a family. Congress permits the deductible to be waived in some circumstances, such as for preventive screenings, but these circumstances are very limited.

What happens, then, when a health insurance mandate requires deductibles to be waived?

That is the issue before us today. In North Dakota, we have a pair of mandates that require every group health insurance policy to provide first-dollar claims payments. Under the federal requirements, providing these first-dollar benefits, without imposing the \$2000 deductible, would disqualify the policy from being considered a high-deductible health plan. In other words, under the existing law, we will not be able to sell HSAs in North Dakota in the group market, because every group policy is required to provide first dollar benefits under these mandates.

The two mandates are NDCC section 26.1-36-08(2)(d), which requires deductibles to be waived for the first five out-patient treatments for substance abuse, and NDCC section 26.1-36-09(2)(f)(4), which requires deductibles to be waived for the first five hours of outpatient mental illness treatment. These mandates apply to all group policies (not individual policies).

The objective of HB 1208 is simply to carve-out HSA-qualified high deductible health insurance policies from the group health insurance mandates requiring first-dollar coverage for mental health and substance abuse.

I support these mandates. I support early intervention in mental health and substance abuse situations. That is why I have worked with the North Dakota Mental Health Association to arrive upon a very limited exception to the mandate, that everyone can be comfortable with. Together, we believe this change represents good public policy.



Communicating for Agriculture and the Self-Employed
112 East Lincoln Avenue
Fergus Falls, MN 56537
218.739.3241

North Dakota Senate
Human Services Committee
Chairwoman Senator Judy Lee

Madame Chairwoman and members of the Committee:

Communicating for Agriculture and the Self-Employed (CA) would like to lend our support to House Bill 1208. This important legislation will allow North Dakota health insurance consumers to continue to take advantage of an important tool in trying to lower the cost of health insurance.

CA has many thousands of farmer and small business members across the country, including several hundred in North Dakota. CA has been working on health issues for rural America since the 1970s including state high-risk pools to offer health insurance to the medically uninsurable. There are 33 states that now have pools including North Dakota. CA also offers an endorsed health insurance program for our members. CA and our members have long championed the idea of increasing the deductible level of health insurance to lower premiums. These high deductible health plans became more desirable in late 2003 when Congress passed the Medicare Improvement legislation that also established Health Savings Accounts.

HSAs enable health consumers in both the individual and group market to contribute to an account and get a tax deduction for the contribution. The money can be taken out on a tax-free basis to pay qualified medical expenses. In order to open an HSA you must first have a federally qualified high deductible health plan in place. The qualified health plan cannot have any doctor office or drug co-pays. The plan cannot have any first dollar coverage except for preventative care. The plans must have only one family deductible.

The rules established by the Department of Treasury for 2005 allow certain deductible limitations for these qualified high deductible health plans, such as the mental health and treatment service options in North Dakota, to be paid with first dollar coverage. This is a temporary rule so North Dakota's mandated benefits would not be allowed after 2006 for a qualified high deductible health plan. North Dakota health consumers would then not be able to use the Health Savings Accounts like other states. HB 1208 fixes that problem.

These accounts enable individuals to contribute on a tax -deductible basis the lower of \$2650 or the level of their health insurance deductible over \$1000. Families can contribute the lower of \$5250 or the level of their deductible over \$2000. Persons over 55 years old can contribute an additional \$600 in 2005 if the money is not used it grows from year to year. The account is owned by the individual and can be taken with them if they change jobs. Employers and individuals can both contribute to the accounts as long as the combined contribution is under the limit.

After the health consumer reaches Medicare eligibility, usually 65 he ceases to make contributions but can continue to use the money tax-free for qualified medical expenses. In addition, after 65 the person can take disbursements from the HSA and use the money for any reason just like an IRA as long as they pay the tax on the disbursement.

Madame Chairwoman and members of the committee, please pass this important legislative change, HB1208 in this committee and support it for final passage to allow the people of North Dakota to take advantage of this new opportunity to obtain more affordable health insurance coverage.

Wayne Nelson
President

HSA Road Rules

*for Consumers, Employers, Insurers,
Banks, Credit Unions and Administrators*

The HSA Coalition

By Dan Perrin

December 7, 2004

First Edition

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Universal HSA Principles

1. You must have an HSA qualified high deductible health plan to open or contribute to a Health Savings Account:
2. Switching to a high deductible health plan from a traditional low deductible health plan will cut the cost of your health plan substantially. You deposit the savings gained into your Health Savings Account. The whole point of a health savings account is to allow you to use that money on a tax-free basis to pay for your health expenses below your new, higher deductible.
3. The money in your Health Savings Account is your own. This means your employer cannot tell you what to do with your own money or restrict what you can spend it on. Since it is your money, it goes with you when you change jobs.
4. You are in charge of your Health Savings Account funds, making you and your doctor the decision makers, not some third-party. Spending your own money also means that you will/should ask about the cost of health care expenditures, which will bring marketplace competition to the world of health care.
5. You decide whether to spend from the account for your medical expenses and how much to spend, or whether to spend out-of-pocket and to save the HSA money for the future.
6. You decide which company will hold the account, and what type of investments you make with your account. Any investment allowed for IRAs is allowed for HSAs (please see Table A).
7. IRS Publication 502 provides a list of allowable expenditures from your Health Savings Account. (Please see Table D and E of this document for a partial and summary list of allowable (tax-free) and non allowable (not tax-free) expenditures from your HSA.)

Health Savings Account Eligibility Road Rules

1. You must have an HSA qualified high deductible health insurance plan.
2. A HSA qualified high deductible health plan has the following characteristics:
 - i) a minimum deductible* of \$1,000 for self-only coverage (2005);
 - ii) a minimum deductible* of \$2,000 for family coverage (2005);
 - iii) a maximum out-of-pocket limit* (including deductibles and co-pays) of \$5,100 for self-only coverage, and \$10,200 for family coverage (2005);
 - iv) preventive care can have first dollar coverage;
 - v) prescription drugs taken to prevent the onset of a condition for which a person has developed risk factors for can be considered preventive care, like cholesterol-lowering medication;
 - vi) preventive care examples include: periodic health evaluations like annual physicals, screening services like mammograms, routine prenatal and well-child care, child and adult immunizations, tobacco cessation programs, and obesity weight loss programs;
 - vii) a general rule of thumb for what is or is not preventive care is the care does not include any service or benefit which treats an existing illness or condition;
 - viii) co-pays are allowed to apply to preventive care;
 - ix) higher out-of-pocket (co-pays and co-insurance) is allowed for out-of-network care;
 - x) until January 1, 2006, you can have an HSA qualified plan that pays for prescription drugs below the deductible, as long as the prescription drug benefit is a separate plan or rider; and,
 - xi) after January 1, 2006, prescription drug coverage before the deductible is met is not allowed.
3. You cannot be covered by any other health insurance that reimburses you for health expenses you incur, unless it is another HSA qualified high deductible health plan. For example, if a family has all members covered under two HSA qualified high deductible health plans, or some family members on one plan and the other family members under another HSA qualified high deductible health plan, the maximum annual contribution to the account remains in force. Just because you have coverage under two HSA qualified high deductible health plans, you cannot double your HSA contribution. It remains at a maximum of \$5250* for a family (2005)

regardless of whether or not you are covered by one or two HSA qualified high deductible health plans.

4. For those covered by two HSA qualified high deductible health plans, it is a violation of the coordination of benefit rules to be paid by each plan for the same expense.
5. Flexible Spending Arrangements (FSAs) and Health Reimbursement Arrangements (HRAs) may make you ineligible for an HSA unless they are: (1) "limited purpose" (limited to dental, vision, or preventive care) or (2) "post-deductible" (pay for medical expenses after the plan deductible is met). HRAs that set aside money only for retiree health expenses are also acceptable.
6. If you are enrolled in Medicare or Medicaid, you cannot have an HSA.
7. Tricare does not currently offer an HSA qualified high deductible health plan. Therefore, if you are on Tricare, you cannot have an HSA. Once Tricare offers an HSA qualified high deductible health plan, and you select it, you can have an HSA.
8. If you have received any Veterans Administration health benefits in the last three months, you cannot have an HSA.
9. If you are Medicare eligible, and you are not enrolled in Medicare, you can open or contribute to an HSA, if you have an HSA qualified health insurance plan. [Please see the note below Table B.]
10. You cannot establish separate HSA accounts for your minor dependent children.
11. You do not have to have earned income from employment to have an HSA.
12. There are no income limits to have an HSA.
13. State mandates for first dollar coverage that adversely impact HSA qualified high deductible health plan design are allowed until January 1, 2006, in order to give certain states time to make changes to their own state laws before that date.

*NOTE: These amounts are indexed annually for inflation.

Health Savings Account Deposit Road Rules

1. You must have an HSA qualified high deductible health plan to open or contribute to an HSA.
2. Your annual HSA deposit can never exceed your insurance plan's deductible, unless you are 55 or older and are making "catch up" contributions.
3. The higher your deductible, the more you can deposit into your HSA. However, the maximum amount you can contribute per year is \$5,250* for family coverage (2005) and \$2,650* for self-only (2005), excluding catch up contributions for those 55 years and older.
4. Individuals 55 and older can make additional catch-up contributions until they enroll in Medicare. For a schedule of the increasing catch up deposit amounts allowed, please see Table B.
5. Catch up amounts must be pro-rated monthly based on the number of months an individual is 55 (assuming they are also covered by a high deductible plan for all of these months). For example, if you turn 55 July 1st then you will be 55 for six months, allowing you to contribute half of the catch-up amount.
6. If you have a family plan with a per-person deductible below the overall family deductible, you can deposit into the account the maximum allowed, if you have enough people in the family so that the sum of their per-person deductibles exceeds the maximum allowable family deposit. However, you cannot deposit more into the HSA than the overall or total family deductible. For example, a family of two with a \$2,000 per-person deductible, and an overall deductible, or total family deductible of \$5,000, can only deposit \$4,000 into the HSA. If a family of three has a \$2,000 per-person deductible, and a \$5,000 overall or total family deductible, then the maximum deposit to the HSA is \$5,000.
7. You can "front load" or fully fund your HSA account on day one of your health savings account being in effect, provided you do not exceed the annual maximum amount (or the pro-rated amount if your account is open on a date other than January 1st.) You can make the deposit anytime after your HSA is open. If you lose your high deductible health plan later in the year, you will have to withdraw some of the contribution from the account.
8. If your high deductible coverage is effective after January 1st, then the total contributions to the account must be pro-rated based on the number of full months your qualified high deductible insurance is in effect. Count only those months for which your high deductible coverage is in effect on the first day of the month. For example, if your high deductible coverage starts on January 3, the maximum number of months for which you can make a contribution to your HSA is 11.
9. You can deposit funds into your HSA in a lump sum or in any amounts or frequency you wish. However, your account trustee/custodian can impose minimum deposit and balance requirements.
10. Deposits to an HSA must be made in cash. Funds in an IRA, 401(k), or other retirement/pension account cannot be directly deposited or "rolled over" into an HSA. But you can take a distribution from one of these accounts, pay applicable taxes (and penalties if withdrawn early) and use the remaining funds to make deposits into your HSA.

11. Rollovers from an Archer Medical Savings Account into a Health Savings Account are allowed if completed within 60 days of withdrawing the funds from your Archer Medical Savings Account.
12. The term "rollover" has several meanings. Rollover of HSA funds from year to year of unspent balances is well understood. However, IRA and HSA rollovers have another to the IRS: you are allowed to take any amount of your HSA funds out of your account out once a year, and there is no limitation on what those funds can be spent on. If the funds are returned to the HSA within 60 days, there is no tax or penalty. However, if those funds are not returned to the HSA within 60 days, then you must pay the taxes due on those funds, and the 10% penalty. Unofficially, this "rollover" rule is known as the "playing with fire" rule.
13. Unlimited HSA trustee to HSA trustee transfers are allowed, meaning, you can move your HSA account any number of times you want in a given year.
14. If you have contributed an amount into your HSA which exceeds your maximum allowable deposit, you may withdraw the excess amount and any earnings on the excess amount prior to April 15th of the following year. However, you must pay income tax on your excess contributions and income tax on any earnings of the excess contribution. There is no 10% penalty on excess contributions.
15. If you do not withdraw the excess contribution to your HSA prior to April 15th of the following year, you must pay a 6% excise tax on the excess contribution, and on any earnings of the excess contribution. If in the next year you decreased your maximum contribution by the amount of your excess contribution made the year before, you do not have to pay the 6% excise tax again. If, however, you leave the excess contribution in, and do not decrease your maximum contribution by the amount of your excess contribution made the year before, you will have to pay the 6% excise tax each year the excess contributions and earnings are in the HSA.

*NOTE: These amounts are indexed annually for inflation.

Health Savings Account Spending Road Rules

1. There are a wide range of allowable tax-free HSA expenditures, including vision and dental expenses, and for example, braces for your children. A description of qualified Health Savings Account expenditures can be found in IRS Publication 502, and is located at the web at: [\[Click here\]](#). Publication 502 has great examples, but it is not the definitive list. (Please see Table D for a partial list of allowable tax-free expenditures and Table E for non allowable expenditures.)
2. If an expenditure from your Health Savings Account is used for purposes other than a qualified health care expense as defined in IRS Publication 502, then the amount withdrawn is subject to both income tax and a 10% penalty, unless the person who makes such a withdrawal from their HSA is over the age of 65. If 65 years old or older, the amount withdrawn for non-medical purposes is treated as retirement income, and is subject to normal income tax, but is not subject to the 10% penalty.
3. Withdrawals that were made for what the HSA owner thought were qualified medical expenditures, but turned out not to be qualified medical expenditures, can be returned to the Health Savings Account if there is clear and convincing evidence that the expenditure was a mistake of fact. Such repayment to the Health Savings Account must be made on or before April 15th of the year following when the individual knew, or should have known, the expenditure was a mistake.
4. Other qualified medical expenses from a Health Savings Account include out-of-pocket expenditures while enrolled in Medicare, including Medicare premiums, deductibles, coinsurance and copays, but not Medigap premiums.
5. Everyone with a Health Savings Account must keep all their receipts showing their expenditures from their account. There are two key reasons you must do this: (1) if you exceed your deductible, you may need the receipts to send to your insurer, and (2) in case you are audited by the IRS, you need to explain your HSA expenditures.
6. You may use funds from your Health Savings Account to reimburse for expenses from a previous year, only if you had an HSA at the time the expenses were incurred.
7. Your spouse will inherit your Health Savings Account upon your death, unless your will provides otherwise.
8. Should the Health Savings Account holder have no spouse, the funds in the account shall no longer be treated as a Health Savings Account but part of the individual's estate and will be subject to estate taxes.
9. HSA funds cannot be used to pay for health insurance premiums unless the individual is receiving federal or state unemployment benefits.
10. HSA funds can also be used to pay premiums for COBRA continuation health insurance coverage from a former employer.
11. HSA funds can be used to pay premiums for qualified long-term care insurance coverage, subject to the age limits in the Internal Revenue Code. (Please see Table C.)

Health Savings Account Road Rules for Trustees or Custodians

(Banks, Credit Unions, Insurers and others)

1. Banks, Credit Unions or any other entity that currently meets the IRS standards for being an IRA trustee or custodian can be a HSA trustee or custodian. Insurers can also be HSA Trustees or Custodians.
2. Any entity already approved by the IRS to be a Archer MSA trustee or custodian is automatically approved to be a HSA custodian.
3. Trustees and custodians can modify existing IRA custodial account or trust account documents for HSAs.
4. The IRS has issued a model HSA Trustee Account document, which can be found on the web at: [\[Click here\]](#).
5. The IRS has issued a model HSA Custodian Account document, which can be found on the web at: [\[Click here\]](#).
6. Deposits to the Health Savings Account can be accepted by the custodian or the trustee at any time preceding the filing date of the account owner's tax return for that year (without extensions.)
7. Deposits to the Health Savings Account can be made by any person or entity, or by the account holder, to their Health Savings Account.
8. No deposit that exceeds the maximum allowable amount (including catch up contributions) should be accepted by a custodian or trustee.
9. It is the final responsibility of the account holder, not the trustee or the custodian, to determine if deposits have exceeded the maximum allowable amount.
10. It is the responsibility of the account owner to notify the custodian or trustee if there has been excess deposits made, and it is the responsibility of the account owner to request the withdrawal of those funds, and the payment of income tax on those funds and the a pro-rata share of the earnings, and the payment of the 10% penalty tax.
11. Rollover contributions from a Health Savings Account or Archer MSA into another HSA are not subject to the maximum deposit rules.
12. The account owner's interest in the balance of the custodial or trust account is non-forfeitable.

13. Health Savings Account funds in either a trust or custodial account may not be invested in life insurance contracts or in collectibles as defined in section 408(m)(3) of the Internal Revenue Code.
14. Assets of Health Savings Accounts may not be commingled with other property, except in a common trust fund or common investment fund (like a mutual fund.)
15. Prohibited transactions include borrowing against or pledging the funds in the Health Savings Account, or any other such prohibited transactions as described in Section 4975 of the Internal Revenue Code.
16. Withdrawals or other distributions from Health Savings Accounts are made at the direction of the owner. However, HSA custodians or trustees can put reasonable limitations on access to the HSA funds, such as the number of withdrawals or size of the withdrawals.
17. The trustee or the custodian is not required to determine whether the distribution is for the payment or reimbursement of qualified medical expenses.
18. Only the account owner is responsible for substantiating that any distribution is for qualified medical expenses and must retain records sufficient to show, if required, that the distribution is for a qualified medical expense.
19. Withdrawals to pay for qualified medical expenses for the account owner, or their spouse, or dependents are tax free.
20. Withdrawals to pay for non-medical expenses are subject to income tax and a 10% penalty. The 10% penalty does not apply if the withdrawal is made after the account owner's death, disability or the account holder is 65 years or older.
21. Upon the account owner's death, the HSA becomes the spouse's HSA, unless there is another beneficiary.
22. If the beneficiary is the account owner's estate, the fair market value of the account as of the owner's date of death is taxable on the account owner's final return.
23. If the beneficiary is someone other than the spouse, the HSA ceases to be an HSA on the date of the owner's death and the fair market value of the account is taxable to that person in the tax year that includes such date.
24. Account owners must give trustees or custodians the necessary information for the preparation of any report required by the IRS.
25. Trustees and custodians agree to submit any such reports required by the IRS.
26. Trustees and custodians may have restrictions of investment powers, voting rights, amendments and termination, removal of custodian, withdrawal procedures, including minimum allowable amounts and frequency, use of credit cards, debit cards, or stored-value cards, return of

mistaken distributions and can provide for descriptions of prohibited transactions, definitions of account terms, and can conform the account to state law requirements and include exculpatory provisions.

27. Multiple trustee to trustee or custodial account to custodial account transfers are allowed in a single year. Such transfers are not subject to the rollover rules.
28. The same self-dealing restrictions on IRAs apply to HSAs.
29. Reporting requirements for financial entities holding HSA funds are relatively simple. Trustees, custodians and health savings account administrators need to file two IRS forms, one for distributions from the HSA, and one for contributions to the HSA.
30. These forms cannot be printed out on your desktop computer because of the special machine readable red ink used on the IRS forms.
31. The two IRS Forms are 5498-SA for contributions, and IRS Form 1099-SA for distributions. Instructions for these forms can be found at: [\[Click here\]](#). Form 5498-SA can be found at: [\[Click here\]](#). Form 1099-SA can be found at: [\[Click here\]](#).
32. The contribution Form 5498-SA is due to both the account owner and the IRS by May 31st.
33. The distribution Form 1099-SA is due to the account owner by January 31, 2005 and are due to the IRS on February 28th, unless you are filing electronically with the IRS, and if so, the due date is March 31st.

Health Savings Account Road Rules for Employers

1. The employee owns your contributions to their account as soon as the funds are deposited.
2. The employer can no more restrict the use of the funds in the employee's Health Savings Account than they can restrict the employee's funds in the employee's personal checking account.
3. Employee contributions to their Health Savings Account can be made on an after-tax basis and taken as an above-the-line deduction on their tax return (making such contributions tax-free) or the employee can make pre-tax contributions to their Health Savings Account through a Section 125 (aka "salary reduction" or "cafeteria") plan.
4. Employee contributions to their Health Savings Account through a cafeteria plan can change on a month-by-month basis. However, the employer can put reasonable limits on how often those contribution amounts can change.
5. Employer contributions to an employees Health Savings Account are always excluded from any employees' income (such contributions are made pre-tax).
6. Employers must make comparable contributions to all employees' Health Savings Accounts (unless made through a Section 125 plan).
7. Such comparable contribution to an employee's Health Savings Account are that all employer contributions must be of the same amount, or of the same percentage of the annual deductible.
8. Comparability rules are likely being violated if "extra contributions" to any employee's Health Savings Account are being made. For example, additional contributions to an employee's Health Savings Account being made based on the employee's seniority, length of service or giving catch up contributions to those employees 55 years and older violate the comparability rules.
9. The comparability rule can be applied separately to part-time employees. The rule can also be applied separately for employees with self-only vs. family coverage.
10. Matching contributions by an employer through a Section 125 plan are not subject to the comparability rule, but are subject to the non-discrimination rules of 125 plans.
11. The non-discrimination rule for Section 125 plans, in general, is that contributions cannot be higher for higher-paid employees than they are for lower-paid employees. Contributions that favor lower-paid employees are allowed.
12. There are no cases in which the Health Savings Account comparability rule or the 125 non-discrimination rules do not apply.

13. Without violating the comparability rule, employers may make their contribution to an employee's Health Savings Account conditional on the employee's participation in a Wellness program. However, the employer must offer an equal cash amount to all HSA eligible employees (those who have an HSA qualified high deductible health plan) who participates in the Wellness program, through a cafeteria plan.
14. For employers who do not provide their employees with health insurance but whose employee may purchase a Health Savings Account on their own, such employer may make pre-tax contributions to such employees' Health Savings Account through a Section 125 plan, as long as the offer is open to all such employees, and the contribution amount follows the Section 125 plan's non-discrimination rule.
15. For employers who do not provide their employees with health insurance but whose employee may purchase a Health Savings Account on their own, such employer may make pre-tax contributions to such employees' to reimburse their monthly health insurance premium, provided the employee brings their monthly health insurance bill to the employer each month.
16. Self-employed, partners and S-Corporation shareholders are not generally considered employees and cannot receive pre-tax employer contributions to their Health Savings Accounts. Self-employed can only take an above-the-line deduction for their premium and Health Savings Account contribution.
17. Regardless of how your S-Corporation or your LLC is structured, the company cannot make pre-tax contributions to owners, shareholders, or partners.
18. It is prohibited to transfer the employee's balance of a Flexible Spending Account (FSA) into a Health Savings Account.
19. It is prohibited to transfer the employer's notional balance of a Health Reimbursement Account (HRA) into any Health Savings Account.
20. A limited purpose FSA or a limited purpose HRA is allowed for expenditures like dental, vision or preventive care.
21. Post deductible HRAs or post deductible FSAs are allowed to pay for expenses above the minimum HSA deductible.
22. COBRA rules apply to the high deductible health insurance plan portion of an HSA, but not to the account.

Health Savings Account Road Rules for Health Insurers

1. The minimum deductibles for HSA qualified high deductible health plans are \$1,000* for self-only (2005), and \$2,000* for families (2005). These deductible minimums are indexed annually for inflation during the preceding year and rounded to the nearest \$50 increment. New deductible limits, if any, will be announced annually by the IRS (likely in November).
2. The maximum deductibles for HSA qualified high deductible health plans are \$5,100* for self-only (2005), and \$10,200* for families (2005). However, all policies with the maximum allowable deductible must cover all costs 100% thereafter to meet the maximum out-of-pocket spending limits.
3. The maximum out-of-pocket limits are \$5,100* for self-only (2005) and \$10,200* for families (2005).
4. Imbedded (per-person) deductibles for family plans are not allowed unless they meet the minimum deductible for families of \$2,000* (2005). The maximum out-of-pocket limit of \$10,200* (2005) still applies.
5. Insurers may allow, but are not required, preventive care services to be covered by the insurance on a first-dollar basis (co-pays permitted) below the deductible.
6. As of January 1, 2006, high deductible health plans must subject prescription drug expenses to the plan deductible. This deadline is not extended for plan contracts that expire after this date.
7. State mandates which currently prohibit HSA qualified plans from being sold in a certain states will not disqualify you from contributing to an HSA, up until January 1, 2006. This deadline will be not extended for health plan contracts that expire after January 1, 2006. States that do not modify their state law to make them HSA friendly by January 1, 2006, will prevent insurers from offering HSA qualified health plans in those states.
8. Insurers themselves determine whether their high deductible plan meets the requirements of federal law. There is no federal government entity, agency or officer who reviews and approves HSA qualified plans. State insurance departments also will not determine whether plans are HSA-qualified.
9. Insurers are expected to inform their customers which high deductible health plans are HSA-qualified.
10. States will continue to regulate high deductible health plans, whether or not they are HSA-qualified.

*NOTE: These amounts are indexed annually for inflation.

● Table A: Allowable Health Savings Account Investments

- Bank Accounts
- Annuities
- Certificates of Deposits
- Stocks
- Bonds
- Mutual Funds
- Certain types of Bullion or Coins - see Section 408(m)(3) of the Internal Revenue Code
- Your HSA custodian or trustee may restrict certain types of investments

● Not Allowable HSA Investments

- Collectables: including any work of art, antique, metal, gem, stamp, coin, alcoholic beverage or other personal property as described in Section 408(m)(3)
- Life Insurance Contracts

Table B: Allowable "Catch Up" Contributions for Americans 55 Years and Older

2004:	\$500
2005:	\$600
2006:	\$700
2007:	\$800
2008:	\$900
2009 and after:	\$1,000

Spouses both over the age of 55 can each contribute up to the maximum catch up amount. Once either spouse enrolls in Medicare, that spouse can no longer contribute any funds, including catch up amounts, to their Health Savings Account. If you are 65 or older and not enrolled in Medicare, you can contribute to your HSA and continue to make catch-up contributions. Note: If you enroll in Social Security you will likely be automatically enrolled in Medicare Part A, which will disqualify you from contributing to an HSA.

Table C: Allowable Expenditures on Long-Term Care Insurance from Your Health Savings Account

In order to spend money from your HSA on long-term care, your long-term care insurance contract must:

1. Be guaranteed renewable,
2. Not provide for a cash surrender value or other money that can be paid, assigned, pledged, or borrowed,
3. Provide that refunds, other than refunds on the death of the insured or complete surrender or cancellation of the contract, and dividends under the contract, must be used only to reduce future premiums or increase future benefits, and
4. Generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare, except where Medicare is a secondary payer, or the contract makes per diem or other periodic payments without regard to expenses.

The amount of qualified long-term care premiums you can pay from an HSA is limited. You can include the following amounts as a qualified medical expense in 2005 (adjusted annually for inflation):

Age 40 or under - \$260.

Age 41 to 50 - \$490.

Age 51 to 60 - \$980.

Age 61 to 70 - \$2,600.

Age 71 or over - \$3,250.

Table D: Allowable (tax-free) Expenditures from Your Health Savings Account

There have been thousands of cases involving the many nuances of what constitutes "medical care" for purposes of section 213(d) of the Internal Revenue Code. A determination of whether an expense is for "medical care" is based on all the relevant facts and circumstances. To be an expense for medical care, the expense has to be primarily for the prevention or alleviation of a physical or mental defect or illness. The determination often hangs on the word "primarily."

Note: If you are receiving federal or state unemployment insurance, you may pay for your health insurance premiums out of your HSA.

Examples of Allowable Expenditures from Your Health Savings Account:

Acupuncture	Drugs (prescription)
Alcoholism Treatment	Eyeglasses
Ambulance	Fertility Enhancement
Artificial Limb	Guide Dog
Artificial Teeth	Gynecologist
Bandages	Health Institute (if prescribed by physician)
Birth Control Pills (by prescription)	H.M.O. (certain expenses)
Breast Reconstruction Surgery (mastectomy)	Hearing Aids
Car Special Hand Controls (for disability)	Home Care
Certain Capital Expenses (e.g., for the disabled)	Hospital Services
Chiropractors	Laboratory Fees
Christian Science Practitioners	Lasik Surgery
COBRA premiums	Lead-Based Paint Removal
Contact Lenses	Learning Disability Fees (prescription)
Cosmetic Surgery (if due to trauma or disease)	Legal Fees (if for mental illness)
Crutches	Life-Care Fees
Dental Treatment	Lodging (for out-patient treatment)
Dermatologist	Long-Term Care (medical expenses)
Diagnostic Devices	Long-Term Care Insurance (up to allowable limits)
Disabled Dependent Care Expenses	Meals (associated with receiving treatments)
Drug Addiction Treatment (inpatient)	Medical Conferences (for ill spouse/dependent)

Medicare Deductibles	Prescription Medicines
Medicare Premiums	Prosthesis
Mentally Retarded (specialized homes)	PSA Test
Nursing Care	Psychiatric Care
Nursing Homes	Psychiatrist
Obstetrician	Psychoanalysis
Operating Room Costs	Psychoanalyst
Operations - Surgical	Psychologist
Ophthalmologist	Qualified Long-Term Care Services
Optician	Radium Treatment
Optometrist	Smoking Cessation Programs
Organ Transplant (including donor's expenses)	Special Education for Children (ill or disabled)
Orthodonture	Specialists
Orthopedic Shoes	Spinal Tests
Orthopedist	Splints
Osteopath	Sterilization
Out-of-pocket expenditures and deductibles for	Surgeon
your spouse or dependent even if insured under	Telephones and Television for the Hearing
a non-HSA health plan	Impaired
Out-of-pocket expenditures while enrolled in	Therapy
Medicare	Transportation Expenses for Health Care
Over-the-Counter Medicines	Treatment
Oxygen and Equipment	Vaccines
Pediatrician	Vitamins (if prescribed)
Personal Care Services (for chronically ill)	Weight Loss Programs
Podiatrist	Wheelchair
Post-Nasal Treatments	Wig (hair loss from disease)
Prenatal Care	X-Rays

Table E: Non-Allowable (not tax-free) Expenditures from Your Health Savings Account

Examples of Non-Allowable Expenses:

Advance Payment for Future Medical Expenses

Athletic Club Membership

Automobile Insurance Premium

Babysitting (for healthy children)

Boarding School Fees

Bottled Water

Commuting Expenses for the Disabled

Controlled Substances

Cosmetics and Hygiene Products

Dancing Lessons

Diaper Service

Domestic Help

Electrolysis or Hair Removal

Funeral Expenses

Hair Transplant

Health Programs at Resorts, Health Clubs, & Gyms

Household Help

Illegal Operations and Treatments

Illegally Procured Drugs

Maternity Clothes

Medigap premiums

Nutritional Supplements

Premiums for Life, Disability, Other

Accident Insurance

Premiums for your HSA Qualified High

Deductible Health Plan, unless you are

receiving Federal or State unemployment

benefits, or you are on COBRA

Scientology Counseling

Social Activities

Special Feeds/Beverages

Swimming Lessons

Teeth Whitening

Travel for General Health Improvement

Tuition in a Particular School for Problem

Children

Why Were Health Savings Accounts Designed this Way?

1. Why are there limits on the maximum deductible for a HSA qualified health insurance plan?

Some critics of Health Savings Accounts wanted limits on the maximum deductible allowed. This limitation on the maximum deductibles also attracted support from moderate Members of Congress, and we needed their votes to pass the law. The maximum deductible amounts in the HSA law were picked because there are diminishing reductions in premiums at deductibles above the deductibles prescribed in the HSA legislation. Further, since the deductibles and maximum contributions are tied to the rate of inflation, these amounts will grow over time.

2. Why can't the out-of-pocket amount be tied to the maximum contribution, instead of the deductible?

While the maximum contribution amount was originally tied to the deductible, the HSA allows for a deductible roughly double the size of the maximum contribution. Tying the maximum contribution rate to the out-of-pocket maximum is a viable policy, but the cost to the Federal government in lost taxable income made that idea politically unviable.

3. Why not carve out prescription drugs and allow tiered co-pays?

Including prescription drugs as a benefit below the deductible will drive up the now affordable cost of HSA qualified health plans, and, as a result, reduce the amount of savings derived from switching to a HSA qualified health plan. This means that less money can be deposited each year into the Health Savings Account, which will diminish their appeal and reduce the ability to build up funds in an HSA.

Tiered co-pays, or any other benefit that is paid below the deductible, seriously compromises the effect of a consumer spending their own money. When you spend your own money, you spend it differently than if you are spending someone else's money. Think of going out for an all expenses paid meal, versus going to a restaurant where you are paying: you order differently.

4. Why can't early retirees pay their HSA qualified health insurance premium from their Health Savings Account?

This change in the law was suggested and the response was: given that there are millions of uninsured Americans, and millions more in the individual market who have health insurance but receive no tax break for their purchase, why should insured early retirees get special treatment?

5. Why can't seniors use their HSA to pay for Medigap coverage?

The guiding principle of HSAs is for people to use their own money to meet a substantial deductible, thereby providing a financial incentive to spend the funds wisely and not to over consume. The main purpose of a Medigap policy is to insure the Medicare deductible.

Allowing HSA funds to pay for Medigap insurance would be akin to allowing HSA funds to buy insurance to cover the HSA deductible. In other words, it would be using HSA funds to defeat the entire purpose of an HSA. Here is an example of the difference it makes when the Medicare deductible is paid by the consumer: the Bipartisan Medicare Commission found that seniors without a Medigap policy spend \$1,400 less per year in Medicare benefits than seniors with a Medigap policy.

6. Why are the long-term care premium amounts that can be paid out of an HSA limited?

In crafting legislation, there is a fine line between asking for what you want and getting what you need. There were other issues being negotiated that needed the political capital more than allowing for unlimited amounts to be spent on long-term care premiums.

7. Why aren't IRAs and 401(k)s allowed to be rolled into an HSA?

While Health Savings Accounts have an investment component, the main purpose of an HSA is to fund health care expenditures and to put the patient in charge of those expenditures, not to have a principle role as a retirement savings vehicle.

8. Why can't HSA distributions be tax free upon your death?

The revenue loss to the Federal government made the price tag for that suggestion too high.

9. What is the status of Medicare Savings Accounts, and why aren't they being promoted more?

Medicare Savings Accounts have gone through their second revision in law, the most recent of which was included in the Medicare Prescription Drug bill that contained the Health Savings Account provision. Unfortunately, due to a drafting error and other needed changes that were not made, further legislative changes will need to be made for Medicare Savings Accounts to become widely offered by insurers. Finally, the health insurance market is moving to offer Health Savings Accounts, and as a practical matter, in most cases, even if the Medicare Savings Account provisions were picture perfect, it is likely Medicare Savings Account product offerings would not begin until the under-65 market has been squared away.

10. Why can't we have one joint HSA Account and still make catch up contributions?

There can be only one primary account holder of the HSA. Both spouses may contribute. The practical effect of this restriction is not significant.

11. Can we use our HSA to pay for medical services provided in other countries, like Mexico and Canada?

Yes.

12. Why are catch up contributions pro-rated when you turn 55 and 65?

Pro-rating contributions was a rule under the MSA pilot, and because there was no specific legislative language to change it, the rule remains in place for Health Savings Accounts.

13. If I am self-employed, can I contribute on a pre-tax basis? How about for partnerships or for S-Corporation owners who own more than 2% or for LLC owners?

Self-employed can only take an above-the-line deduction for their premium and Health Savings Account contribution. Regardless of how your S-Corporation or LLC is structured, the only way you can structure your HSA contributions is as an above-the-line deduction. The HSA legislation simply cited current law in this regard. It was a political impossibility in the HSA legislation to make the necessary change in law to allow pre-tax contributions for LLC owners, S-Corp. owners or the self-employed.

14. What is an "above-the-line" deduction?

An above-the-line deduction reduces your Federal taxable income dollar for dollar by the amount you contribute. You do not have to itemize to claim this deduction. For example, if you contribute \$1,000 to your HSA, you reduce your Federal taxable income by \$1,000.

15. Why can't I pay my health insurance premiums with my HSA?

The money in your HSA is to meet your health care expenses below your deductible, not to meet your health insurance premiums. What if people spent their entire HSA deposit on their insurance premiums, and found no funds left to meet their health care costs to meet their deductible? The only time you are allowed to pay the health insurance premium with your HSA funds is if you are collecting Federal or State unemployment benefits, or you are on COBRA.

16. Can you provide a list of qualified medical expenses?

See Tables D and E, for a list of allowable and non allowable medical expenses. Please also see IRS Publication 502, which can be found in the U.S. Treasury section of this website, or at [\[Click here\]](#).

17. Can I be my own trustee?

No, the account portion of the HSA legislation cites existing IRA law. You cannot open your own IRA, can you? The same rule applies for HSAs.

Author's Note

Here is a big thank you to those who reviewed this document for errors, each of whom wish to remain anonymous. All errors and omissions contained herein are mine.

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