



Am. Sub. H.B. 46

126th General Assembly

(As Passed by the General Assembly)

Reps. Schaffer, McGregor, J., Fessler, Taylor, Reidelbach, Martin, Aslanides, Blessing, Brinkman, Buehrer, Cassell, Chandler, Collier, Combs, Core, Dolan, Domenick, Evans, C., Evans, D., Faber, Flowers, Gilb, Hagan, Hughes, Law, Patton, T., Raussen, Sayre, Schneider, Seitz, Setzer, Smith, G., Trakas, Wagoner, White, Willamowski, Wolpert, Yuko, Coley

Sens. Armbruster, Carey, Cates, Clancy, Coughlin, Gardner, Goodman, Hottinger, Mumper, Niehaus, Schuler, Schuring, Spada, Stivers, Harris

Effective date: *

ACT SUMMARY

- Permits political subdivisions that provide health care benefits to officers and employees, and boards of county commissioners, to establish and maintain health savings account programs for officers and employees.
- Permits political subdivisions and boards of county commissioners that establish and maintain health savings account programs to use public moneys to pay for or fund federally qualified high deductible health plans that are linked to health savings accounts or to make contributions to health savings accounts.

CONTENT AND OPERATION

Background--health savings accounts

In 2003, Congress authorized the creation of health savings accounts (HSAs) as part of the Medicare Prescription Drug, Improvement, and

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

Modernization Act of 2003.¹ An HSA is a tax-exempt trust or custodial account established exclusively for the purpose of paying "qualified medical expenses" of an "eligible individual" and the eligible individual's spouse or dependents.²

"Qualified medical expenses" are listed in Internal Revenue Service Publication 502.³ Examples include amounts paid for doctors' fees, prescription and non-prescription medicines, and necessary hospital expenses not paid for by insurance.⁴

To be an "eligible individual" in any given month, an individual must (1) be covered under a high deductible health plan on the first day of that month, (2) not be covered by any other health plan that is not a high deductible health plan (with certain exceptions for plans providing limited types of coverage), (3) not be enrolled in Medicare, and (4) not be claimed as a dependent on another person's tax return.⁵

In general, a high deductible health plan is a health plan that satisfies certain requirements with respect to deductibles and out-of-pocket expenses. The following table shows the minimum and maximum annual deductible and other out-of-pocket expenses for high deductible health plans for 2005:⁶

| Health plan coverage | Minimum Annual Deductible | Maximum Annual Deductible and Other Out-of-Pocket Expenses⁷ |
|-----------------------------|----------------------------------|---|
| Individual | \$1,000 | \$5,100 |
| Multiple | \$2,000 | \$10,200 |

¹ Section 1201 of the Act, 117 Stat. 2469-2476.

² Internal Revenue Service. "Notice 2004-2: Questions and Answers on HSAs," (visited Feb. 10, 2006), accessible at <<http://www.irs.gov/pub/irs-drop/n-04-2.pdf>>.

³ Accessible at <<http://www.irs.gov/pub/irs-pdf/p502.pdf>>.

⁴ Internal Revenue Service. "Publication 969," (visited Feb. 10, 2006), accessible at <<http://www.irs.gov/pub/irs-pdf/p969.pdf>>.

⁵ Internal Revenue Service, *supra* note 2.

⁶ Internal Revenue Service, *supra* note 4.

⁷ This limit does not apply to deductibles and expenses for out-of-network services if the plan uses a network of providers. Instead, only deductibles and out-of-pocket expenses for services within the network should be used to determine whether the limit applies. Internal Revenue Service, *supra* note 4.

An eligible individual may establish an HSA with a qualified HSA trustee or custodian and does not need the permission or authorization of the Internal Revenue Service to do so. An eligible individual who is an employee may establish an HSA with or without the involvement of the individual's employer. An eligible individual, the individual's employer, or both may make contributions to the individual's HSA.⁸ Because HSAs are portable, employees may take funds in an HSA with them when they leave or change jobs.⁹

Any insurance company or bank (including a similar institution defined in section 408(n) of the Internal Revenue Code) can be an HSA trustee or custodian. Any other person already approved by the IRS to be a trustee or custodian for individual retirement accounts (IRAs) or Archer Medical Savings Accounts is automatically approved to be an HSA trustee or custodian.¹⁰

Health savings account programs--political subdivisions and counties

(R.C. 9.833 and 305.172; R.C. 305.171 (not in the act))

Under continuing law, and subject to certain financial and administrative requirements, a political subdivision that provides health care benefits for its officers or employees, or a board of county commissioners, may establish and maintain an individual or joint self-insurance program with public moneys to provide authorized health care benefits to those officers and employees and their dependents.

The act expressly permits a political subdivision¹¹ that provides health care benefits for its officers or employees, or the board of county commissioners of any county, to establish and maintain a health savings account program whereby employees or officers (in the case of political subdivisions) and county officers or employees¹² (in the case of boards of county commissioners) may establish and

⁸ *Internal Revenue Service, supra note 2.*

⁹ *America's Health Insurance Plans, Center for Policy and Research. "Comparison of Tax-Advantaged Health Care Spending Accounts," (visited Feb. 10, 2006), accessible at <<http://www.ahipresearch.org/pdfs/ChartMSAFSAHRAHSAJan05.pdf>>.*

¹⁰ *Internal Revenue Service, supra note 2.*

¹¹ *Under law unchanged by the act, a "political subdivision" is a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state (R.C. 9.833(A)).*

¹² *The act provides that the term, "county officer or employee," includes, but is not limited to, a member or employee of the county board of elections.*

maintain health savings accounts in accordance with the section of the Internal Revenue Code that governs health savings accounts.¹³ A health savings account may be part of a political subdivision's self-insurance program.

The act also provides that with respect to political subdivisions and boards of county commissioners that establish health savings account programs, public moneys may be used to pay for or fund federally qualified high deductible health plans that are linked to health savings accounts or to make contributions to health savings accounts.

HISTORY

| ACTION | DATE |
|---|----------|
| Introduced | 02-08-05 |
| Reported, H. Health | 01-19-06 |
| Passed House (92-4) | 01-31-06 |
| Reported, S. Health, Human Services & Aging | 03-16-06 |
| Passed Senate (33-0) | 03-28-06 |
| House concurred in Senate amendments (95-0) | 03-29-06 |

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¹³ Section 223 of the Internal Revenue Code, codified at 26 U.S.C. § 223.