

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1468 Session of
1995

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J. TAYLOR, WAUGH, BAKER, HENNESSEY, TRICH, TRUE, CIVERA,
LAUGHLIN AND MAITLAND, APRIL 26, 1995

REFERRED TO COMMITTEE ON INSURANCE, APRIL 26, 1995

AN ACT

1 Providing for the establishment and regulation of individual and
2 employer-provided medical care savings accounts.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Medical Care
7 Savings Account Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) Almost 1,000,000 citizens of this Commonwealth are
11 without health insurance, many while between jobs, and more
12 are underinsured because of the effects of rising health care
13 costs and spending.

1 (2) The costs of health care have forced some employers
2 to trim the level and availability of medical care benefits
3 to their employees.

4 (3) Overutilization of medical care services for
5 relatively small claims is one of the most significant causes
6 of high health care costs and spending increases.

7 (4) Typically, more than two-thirds of all insurance
8 claims for health care spending are less than \$3,000 per
9 family per year in this country.

10 (5) The projected dramatic increase in the older
11 population in this Commonwealth will create even greater
12 demands on the Commonwealth to provide long-term care for
13 those in need.

14 (6) In response to increases in health care spending,
15 medical care savings accounts shall be set forth to enhance
16 health insurance availability for citizens of this
17 Commonwealth, to provide incentives to eliminate unnecessary
18 medical treatment and to encourage competition in seeking
19 health care.

20 (7) To alleviate the impoverishment of citizens of this
21 Commonwealth requiring long-term care, medical care savings
22 accounts shall be set forth to promote saving for long-term
23 care and to provide incentives for individuals to protect
24 themselves from financial hardship due to a long-term health
25 care need.

26 (8) By setting aside money in a medical care savings
27 account:

28 (i) Millions of citizens of this Commonwealth can
29 insure themselves for both routine and major medical
30 services and long-term care through employer-funded or

individual-funded medical care savings account
arrangements and reduced-cost qualified higher deductible
insurance policies.

(ii) Employees can change jobs, using the medical
care savings account to provide for their health care
needs while they are between jobs.

(iii) Sole proprietors during times of recession
will have medical dollars saved to cushion them.

(iv) Individuals and families will continue to have
the freedom to choose their own doctor and other health
care service providers.

(v) High school graduates not attending college and
full-time or part-time college students no longer
considered dependents will be able to afford health care
coverage.

(vi) Early retirees will have medical dollars saved
to continue health coverage.

(vii) Health care costs and spending increases will
be reduced by comparative shopping by consumers for
quality health care services.

(viii) The problem of long-term care financing will
be substantially reduced by empowering the citizens of
this Commonwealth to save for their future needs.

Section 3. Definitions.

The following words and phrases when used in this act shall
have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Account administrator." Any of the following:

(1) A nationally chartered or State-chartered bank, a
federally chartered or State-chartered savings and loan

1 association, a federally chartered or State-chartered savings
2 bank, or a federally chartered or State-chartered credit
3 union.

4 (2) A trust company authorized to act as a fiduciary.

5 (3) An insurance company authorized to do business in
6 this Commonwealth under the act of May 17, 1921 (P.L.789,
7 No.285), known as The Insurance Department Act of 1921, or an
8 entity operating under 40 Pa.C.S. Ch. 61 (relating to
9 hospital plan corporations) or 63 (relating to professional
10 health services plan corporations).

11 (4) A broker-dealer, commodity issuer, investment
12 advisor or agent registered under the act of December 5, 1972
13 (P.L.1280, No.284), known as the Pennsylvania Securities Act
14 of 1972.

15 (5) A certified public accountant licensed to practice
16 in this Commonwealth under the act of May 26, 1947 (P.L.318,
17 No.140), known as The C.P.A. Law.

18 (6) An attorney licensed to practice in this
19 Commonwealth.

20 (7) An employer, if the employer has a self-insured
21 health plan under the Employee Retirement Income Security Act
22 of 1974, (Public Law 93-406, 88 Stat. 829).

23 (8) An employer that participates in the medical savings
24 account program.

25 "Account holder." A person or an employee who contributes or
26 whose employer contributes to a medical care savings account for
27 the person or employee's benefit, on whose behalf a medical care
28 savings account is established.

29 "Apportion," "apportioned" or "apportionment." The premium
30 differential between the premiums for a qualified higher

1 deductible plan and the plan previously offered by the employer,
2 based on bona fide quotes from insurers offering similar
3 benefits for similar employees in the same geographic area. In
4 the event that no plan was previously offered, the portion
5 contributed to a medical care savings account may be less than
6 the deductible of the qualified higher deductible plan, and the
7 premium differential formula shall be based on bona fide quotes
8 for a low deductible health plan and a qualified higher
9 deductible plan offering similar benefits for similar employees
10 in the same geographic area.

11 "Deductible." The total deductible for an employee and all
12 the dependents of that employee for a calendar year.

13 "Dependent child."

14 (1) A person under the age of 18 who is not otherwise
15 emancipated, married or a member of the armed forces of the
16 United States.

17 (2) A person who is mentally or physically incapacitated
18 to the extent that the child is not self-sufficient.

19 (3) A person 23 years of age or younger who is enrolled
20 as a full-time student and who is legally entitled or subject
21 to a court order for the provision of proper and necessary
22 subsistence, education, medical care or any other care
23 necessary for the person's health, guidance or well-being.

24 "Employee." A person for whose benefit or for the benefit of
25 whose dependents a medical care savings account is established.

26 "Health plan." An individual health policy, subscriber
27 contract or certificate or plan or an employee welfare benefit
28 plan providing medical care as defined in the Internal Revenue
29 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) to
30 participants or beneficiaries directly or through insurance,

1 reimbursement or otherwise.

2 "Individual medical care savings account." An account
3 created or organized to pay the eligible medical, dental and
4 long-term care expenses of the account holder and his dependents
5 to promote good health that includes the purchase by the account
6 holder of a qualified higher deductible plan.

7 "Medical Care Savings Account" or "MCSA." An account created
8 or organized by an employer in this Commonwealth out of which an
9 account holder and his or her dependents can pay for medical
10 care as defined in the Internal Revenue Code of 1986 (Public Law
11 99-514, 26 U.S.C. § 1 et seq.) or other long-term care expenses
12 to promote good health that includes the purchase of a qualified
13 higher deductible health plan for the benefit of an employee and
14 the employee's dependents.

15 "Medical expenses." Medical care, dental care, eye care or
16 long-term care. The term excludes premiums for all insurance
17 except for a qualified higher deductible policy or long-term
18 care insurance.

19 "Qualified higher deductible plan." A health plan which
20 provides for payment of covered benefits in excess of the
21 deductible and is purchased by an account holder or by an
22 employer for the benefit of an employee and the employee's
23 dependents for whom the employer makes deposits into an MCSA,
24 which deductible shall not be less than \$1,000 and more than
25 \$5,000 for 1996, with the minimum and maximum adjusted annually
26 thereafter by a percentage equal to the previous year's increase
27 in the National Consumer Price Index.

28 Section 4. Individual medical care savings accounts.

29 (a) General rule.--A person may deposit cash contributions
30 to an individual medical care savings account provided that

1 total yearly contributions shall be made on or before April 15
2 of each year and shall not exceed \$5,000 for 1996 for the
3 account holder and \$1,000 for each dependent for 1996. This
4 maximum shall be adjusted annually by a percentage equal to the
5 previous year's increase in the National Consumer Price Index.

6 (b) Treatment of interest and reimbursements.--Interest
7 earned on an individual medical care savings account and money
8 reimbursed to an account holder for eligible medical expenses
9 need not be included as personal income taxable under Article
10 III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
11 Reform Code of 1971.

12 (c) Account by operation of law.--The individual medical
13 care savings account shall be placed with an account
14 administrator. The account administrator shall utilize the
15 account assets solely for the purpose of paying the medical,
16 dental and long-term care expenses of the account holder.

17 (d) Restrictions on withdrawal.--Individual medical care
18 savings account funds may be withdrawn by the account holder for
19 a purpose other than payment for medical care services, subject
20 to the following restrictions and penalties:

21 (1) The deductible required for payment of covered
22 benefits under the qualified higher deductible plan must be
23 reserved at all times or accounted for in eligible deductible
24 health care expenditures under the individual medical care
25 savings account on an annual basis.

26 (2) There shall be a distribution penalty payable to the
27 Department of Revenue by the administrator on behalf of the
28 account holder for withdrawal by the account holder of
29 individual medical care savings account funds not used for
30 health care expenditures. Account funds or any portion

1 thereof used as security for a loan shall be treated as
2 distributed. Such penalty shall be 10% of the amount of
3 interest earned as of the date of withdrawal on the account,
4 and, upon such withdrawal, the interest earned shall be
5 subject to State income taxation.

6 (3) When a person is no longer considered a legal
7 dependent under a qualified higher deductible plan the
8 account holder may withdraw, without penalty or taxation, the
9 premium necessary to purchase a new qualified higher
10 deductible plan and funds to meet the deductible to establish
11 an individual medical care savings account for the person no
12 longer considered a legal dependent under the prior qualified
13 higher deductible plan.

14 (e) Disbursement arising out of bankruptcy.--The amount of a
15 disbursement of any assets of a medical care savings account
16 pursuant to a filing for protection under 11 U.S.C. (relating to
17 bankruptcy), by an account holder or person for whose benefit
18 the account was established shall not be considered a withdrawal
19 for purposes of this section. The amount of a disbursement is
20 not subject to taxation under Article III of the Tax Reform Code
21 of 1971, and subsection (b) shall not apply.

22 (f) Treatment of funds upon death.--Upon the death of the
23 account holder, the account administrator shall distribute the
24 principle, and accumulated interest, to the decedent's estate
25 and the money taxed as part of the estate as provided by law or
26 distributed to the account holder's beneficiary, unless within
27 60 days after the account holder's death, the spouse or
28 dependents request in writing:

29 (1) the account administrator remain the administrator
30 of the account and the account administrator agrees to retain

1 the account; or

2 (2) the account be transferred to a new account
3 administrator.

4 Section 5. Authorizing medical care savings accounts.

5 (a) Offer of plan.--For the years beginning on or after
6 January 1, 1996, an employer, except as otherwise provided by
7 statute, contract or collective bargaining agreement may offer
8 an MCSA program to the employer's employees. An account holder
9 covered under an MCSA arrangement may deposit contributions
10 during a plan year into his or her Medical Care Savings Account
11 to increase the valued amount of his or her apportionment set
12 aside by the employer to cover medical care expenses. The total
13 amount of the yearly apportionment shall not exceed the
14 deductible of the qualified higher deductible plan and shall be
15 deposited on or before April 15 of each year.

16 (b) Tax exempt nature of funds.--Any principle apportioned
17 under an MCSA arrangement, any interest which may be earned
18 depending on plan arrangement and accounts used to pay for
19 medical expenses shall be exempt from Pennsylvania taxation.

20 (c) Benefit to account holders.--The employer may apportion
21 to account holders under a tax-exempt MCSA arrangement the
22 amount required to cover completely the account holders' and
23 account holders' dependents' deductibles and coinsurance, if
24 any, under the purchased qualified higher deductible plan.

25 (d) Advance of funds.--If an employer makes contributions to
26 a medical care savings account program on a periodic installment
27 basis, the employer may advance to an employee, interest free,
28 an amount necessary to cover a medical expense that exceeds the
29 amount in the employee's medical care savings account when the
30 expense is incurred, if the employee agrees to repay the advance

1 from future installments or when the person ceases to be an
2 employee of the employer.

3 (e) Restrictions on withdrawals.--An account holder may
4 utilize his or her apportioned account moneys solely for the
5 purpose of paying medical expenses incurred by the account
6 holder and his or her dependents, except that account holders
7 may withdraw on their apportionment of account funds for a
8 purpose other than payment of medical expenses subject to the
9 following restrictions and penalties:

10 (1) The deductible required for payment of covered
11 benefits under the qualified higher deductible plan must be
12 reserved at all times or accounted for in eligible deductible
13 medical care expenditures under the account holder's MSCA on
14 an annual basis.

15 (2) Any remaining amount of an account holder's
16 apportionment at the end of the year will belong to the
17 account holder with no restrictions on how the money may be
18 spent other than withdrawals made to cover other than medical
19 expenses become fully taxable at the time of withdrawal.

20 (3) There shall be a distribution penalty payable to the
21 Department of Revenue by the administrator on behalf of the
22 account holder for withdrawal during a plan year by the
23 account holder of MCSA funds not used for medical care
24 expenditures. Account funds or any portion thereof used as
25 security for a loan shall be treated as distributed. Such
26 penalty shall be 10% of the account holder's withdrawal, and,
27 upon such withdrawal the interest earned shall be subject to
28 State income taxation.

29 (4) When a person is no longer considered a legal
30 dependent under a qualified higher deductible plan the

1 employee may withdraw, without penalty or taxation, the
2 premium necessary to purchase a new qualified higher
3 deductible plan and the funds to meet the deductible to
4 establish an individual medical care savings account for the
5 person no longer considered a legal dependent under the prior
6 qualified higher deductible plan.

7 (f) Disbursement arising out of bankruptcy.--The amount of a
8 disbursement of any assets of a medical care savings account
9 pursuant to a filing for protection under 11 U.S.C. (relating to
10 bankruptcy), by an account holder or person for whose benefit
11 the account was established shall not be considered a withdrawal
12 for purposes of this section. The amount of a disbursement is
13 not subject to taxation under Article III of the act of March 4,
14 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and
15 subsection (b) shall not apply.

16 (g) Reporting.--An employer that offers an MCSA program
17 shall inform all employees in writing of the Federal tax status
18 of contributions made under this act before making
19 contributions. Employers shall cause to be issued to
20 participating employees at least annually a statement setting
21 forth amounts remaining in their accounts.

22 (h) Treatment of funds upon death.--Upon the death of the
23 account holder the account administrator shall distribute the
24 principal and accumulated interest of the MCSA to the decedent's
25 estate and it shall be taxed as part of the estate as provided
26 by law or distributed to the account holder's beneficiary,
27 unless within 60 days after the account holder's death the
28 spouse or dependents request in writing:

29 (1) the account administrator remain the administrator
30 of the account and the account administrator agrees to retain

1 the account; or

2 (2) the account be transferred to a new account
3 administrator.

4 (i) Treatment upon termination or change of employment.--If
5 an employee is no longer employed by an employer that
6 participates in a medical care savings account program and the
7 employee directs a written request, not more than 60 days after
8 the final day of employment to the former employer's account
9 administrator that the account remain with that administrator
10 and that account administrator agrees to retain the account, the
11 money in the medical care savings account may be utilized for
12 the benefit of the employee or the employee's dependents subject
13 to this act and shall remain exempt from taxation under this
14 act. Not more than 30 days after the expiration of the 60 days,
15 if the account administrator does not agree to retain the former
16 employee's account, the employer shall mail a check to the
17 former employee at the employee's last known address equal to
18 the amount in the account on that day. The amount is subject to
19 State income taxation but is not subject to the penalty under
20 subsection (e)(3). If an employee becomes employed with a
21 different employer that participates in a medical care savings
22 account program, the employee may transfer his medical care
23 savings account to the new employer's account administrator or
24 to an individual medical care savings account without taxation
25 or penalty.

26 Section 6. Duties of account administrator.

27 (1) The account administrator shall utilize the funds
28 held in a medical care savings account solely for the purpose
29 of paying the eligible medical expenses of the account holder
30 or the account holder's dependents, or to purchase a health

coverage policy, certificate or contract, if the account holder does not otherwise have health insurance coverage.

(2) Funds held in a medical care savings account shall not be used to cover medical expenses of the account holder or the account holder's dependents that are otherwise covered, including, but not limited to, medical expenses covered under an automobile insurance policy, workers' compensation insurance policy or self-insurance plan, or another employer-funded health coverage policy, certificate or contract.

(3) The account holder may submit documentation of medical expenses paid by the account holder or the employee during the tax year to the account administrator. The account administrator shall reimburse the account holder from the account holder's account for eligible medical expenses.

Section 7. No duplication of benefits.

Policies issued as a part of a medical care savings benefit shall not be required to duplicate expenses that may be proper expenses covered by the medical care savings benefit.

Additionally, the qualified higher deductible plan may provide that the deductible specified in the insurance policy may be increased by the amount of any benefits payable by any other health benefits program or plan.

Section 8. Withdrawal after certain age.

After an account holder reaches 59 1/2 years of age or older, withdrawals shall not be subject to the 10% penalty imposed under this act.

Section 9. Regulations.

The Insurance Department shall promulgate regulations to implement, administer and enforce this act.

1 Section 10. Applicability.

2 This act shall apply to tax years beginning January 1, 1996.

3 Section 11. Repeals.

4 All acts and parts of acts are repealed insofar as they are
5 inconsistent with this act.

6 Section 12. Effective date.

7 This act shall take effect in 90 days.