

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 213 Session of 2011

INTRODUCED BY FOLMER, ALLOWAY, D. WHITE, MENSCH, ERICKSON,
BROWNE, M. WHITE, PIPPY, PILEGGI AND WAUGH, JANUARY 21, 2011

REFERRED TO BANKING AND INSURANCE, JANUARY 21, 2011

AN ACT

1 Authorizing employees of the Commonwealth and political
2 subdivisions to establish health savings accounts; and
3 providing for the requirements of health savings accounts and
4 for tax exemption under certain circumstances.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Government
9 Employee Health Savings Account Act.

10 Section 2. Definitions.

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

14 "Deductible." The total deductible for an eligible
15 individual and all the dependents of that eligible individual
16 for a calendar year.

17 "Dependent." The spouse or child of an eligible individual
18 as defined in section 152 of the Internal Revenue Code of 1986
19 (Public Law 99-514, 26 U.S.C. § 152).

1 "Eligible individual." An individual taxpayer, including an
2 employee of an employer who is a government employee, who
3 contributes to a health savings account on the employee's behalf
4 and who:

5 (1) Must be covered by a high deductible health plan
6 individually or with a dependent.

7 (2) May not be covered under any health plan that is not
8 a high deductible health plan, except for:

9 (i) Coverage for accidents.

10 (ii) Workers' compensation insurance.

11 (iii) Insurance for a specified disease or illness.

12 (iv) Insurance paying a fixed amount per day per
13 hospitalization.

14 (v) Tort liabilities.

15 (3) Establishes or on whose behalf the health savings
16 account is established.

17 "Employer." The Commonwealth and any political subdivision
18 that employs an individual.

19 "Government employee." An individual employed by the
20 Commonwealth or a political subdivision.

21 "Health savings account" or "account." A trust or custodian
22 established in this Commonwealth pursuant to a health savings
23 account program exclusively to pay the qualified medical
24 expenses of an eligible individual or the individual's
25 dependents, but only if the written governing instrument
26 creating the account meets the following requirements:

27 (1) Except in the case of a rollover contribution, no
28 contribution will be accepted:

29 (i) unless it is in cash; or

30 (ii) to the extent such contribution, when added to

1 the previous contributions to the account for the
2 calendar year, exceeds 100% of the eligible individual's
3 deductible or \$2,600 for an individual or \$5,150 per
4 family, whichever is lower.

5 (2) The trustee or custodian is a bank, an insurance
6 company or another person approved by the Secretary of Health
7 and Human Services.

8 (3) No part of the trust assets will be invested in life
9 insurance contracts.

10 (4) The assets of the account will not be commingled
11 with other property except as allowed for under Individual
12 Retirement Accounts.

13 (5) The eligible individual's interest in the account is
14 nonforfeitable.

15 "Health savings account program" or "program." A program
16 that includes all of the following:

17 (1) The purchase by an eligible individual or by an
18 employer of a high deductible health plan.

19 (2) The contribution into a health savings account by an
20 eligible individual or on behalf of an employee or by the
21 employer. The total annual contribution may not exceed the
22 amount of the plan's higher deductible or the amounts listed
23 in paragraph (1)(ii) of the definition "health savings
24 account" or "account."

25 "High deductible." The term means:

26 (1) In the case of self-only coverage, an annual
27 deductible increased each year by a cost-of-living adjustment
28 that is not less than \$1,000 and the sum of the annual
29 deductible and other annual out-of-pocket expenses required
30 to be paid under a plan for covered benefits and that does

not exceed \$5,000.

(2) In the case of family coverage, an annual deductible increased each year by a cost-of-living adjustment of not less than \$2,000 and the sum of the annual deductible and other annual out-of-pocket expenses required to be paid under a plan for covered benefits and that does not exceed \$10,000.

A plan shall not fail to be treated as a high deductible plan by reason of its failure to include a deductible for preventive care or, in the case of a network plan, for having out-of-pocket expenses that exceed these limits on an annual deductible for services provided outside the network.

"High deductible health plan." A health coverage policy, certificate or contract that provides for payments for covered benefits that exceed the higher deductible.

"Qualified medical expense." An expense paid by a taxpayer for medical care described in section 213(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 213(d)).

Section 3. Applicability and scope.

(a) General rule.--The provisions of this act shall apply also to taxpayers who do not receive preferred Federal tax treatment for a health savings account under section 223 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 223).

(b) Annual limitation on deposits.--For taxable years beginning after December 31, 2011, a resident of this Commonwealth or an employer shall be allowed to deposit contributions to a health savings account. The amount of deposit shall not exceed the amount of the plan's high deductible, nor \$2,600 for an individual policy and \$5,150 for a family policy.

(c) Tax exemption.--Except as provided in section 5,

1 principal contributed to and interest earned on a health savings
2 account and money reimbursed to an eligible individual or an
3 employee for qualified medical expenses are exempt from taxation
4 under the act of March 4, 1971 (P.L.6, No.2), known as the Tax
5 Reform Code of 1971.

6 Section 4. Distribution of funds from health savings accounts.

7 (a) General rule.--A trustee or custodian of a health
8 savings account shall utilize the funds held in the health
9 savings account solely for the purpose of paying the qualified
10 medical expenses of the eligible individual or the individual's
11 dependents or to purchase a health coverage policy certificate
12 or contract if the eligible individual is receiving unemployment
13 compensation, is exercising continuation privileges under
14 Federal law or is purchasing a long-term care insurance
15 contract, or to pay for health insurance other than a Medicare
16 supplemental policy for those who are Medicare eligible.

17 (b) Restriction of use of funds.--Funds held in a health
18 savings account may not be used to cover expenses of an eligible
19 individual or the individual's dependents that are otherwise
20 covered, including, but not limited to, a medical expense
21 covered pursuant to an automobile insurance policy, workers'
22 compensation insurance policy or self-insured plan or another
23 employer-funded health coverage policy, certificate or contract.

24 Section 5. Withdrawals from health savings accounts.

25 (a) General rule.--Subject to the provisions of this
26 section, an eligible individual may withdraw money from the
27 individual's health savings account for any purpose, other than
28 a purpose described in section 4(a).

29 (b) Tax consequences of certain withdrawals.--Subject to the
30 provisions of subsection (c), if an eligible individual

1 withdraws money from the individual's health savings account for
2 any purpose, other than a purpose described in section 4(a) at
3 any other time, all of the following apply:

4 (1) The amount of the withdrawal is income under the act
5 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
6 of 1971, in the tax year of the withdrawal.

7 (2) Interest earned on the account during the tax year
8 in which a withdrawal under this subsection is made is income
9 for the purposes of the Tax Reform Code of 1971.

10 (c) Effect of bankruptcy.--The amount of disbursement of any
11 assets of a health savings account pursuant to a filing for
12 protection under 11 U.S.C. (relating to bankruptcy) by an
13 eligible individual or person for whose benefit the account was
14 established is not considered a withdrawal for purposes of this
15 section. The amount of the disbursement is not subject to
16 taxation under the Tax Reform Code of 1971 and subsection (b)
17 does not apply.

18 (d) Transfers between spouses or former spouses.--The
19 transfer of an eligible individual's interest in a health
20 savings account to an eligible individual's spouse or former
21 spouse shall not be considered a taxable transfer made by such
22 eligible individual, notwithstanding any other provision of this
23 act and this interest shall, after the transfer, be treated as a
24 health savings account with respect to which the spouse is the
25 eligible individual.

26 (e) Effect of eligible individual's death.--Upon the death
27 of the eligible individual, the trustee or custodian shall
28 distribute the principal and accumulated interest of the health
29 savings account to the estate of the deceased.

30 (f) Effect of changed employment.--If an employee becomes

1 employed with a different employer that participates in a health
2 savings account program, the employee may transfer his or her
3 health savings account to that new employer's trustee or
4 custodian or to an individually purchased account program.

5 Section 20. Effective date.

6 This act shall take effect in 60 days.