

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1468 Session of
1995

INTRODUCED BY MICOZZIE, GANNON, FICHTER, LYNCH, PETTIT,
GODSHALL, NICKOL, LEH, SCHRODER, L. I. COHEN, BUXTON,
D. W. SNYDER, FLICK, TULLI, SAYLOR, HERMAN, SCHULER,
FAIRCHILD, PITTS, DEMPSEY, FLEAGLE, STRITTMATTER, CONTI,
BIRMELIN, HUTCHINSON, ARMSTRONG, SATHER, KING, STISH, RUBLEY,
CLARK, COLAFELLA, TRELLO, RAYMOND, HERSHEY, STERN, KENNEY,
BARLEY, EGOLF, DRUCE, BATTISTO, PLATTS, HANNA, REINARD,
DeLUCA, STURLA, MELIO, MERRY, E. Z. TAYLOR, STABACK, CLYMER,
FARGO, MILLER, SERAFINI, TANGRETTI, ADOLPH, O'BRIEN,
J. TAYLOR, WAUGH, BAKER, HENNESSEY, TRICH, TRUE, CIVERA,
LAUGHLIN, MAITLAND AND ROHRER, APRIL 26, 1995

SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, SEPTEMBER 30, 1996

AN ACT

1 ~~Providing for the establishment and regulation of individual and~~ <—
2 ~~employer provided medical care savings accounts.~~
3 EXEMPTING MEDICAL CARE SAVINGS ACCOUNTS FROM STATE PERSONAL <—
4 INCOME TAX; AND PROVIDING FOR MANDATED BENEFITS.

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 Medical Care
9 Savings Account Act.

10 ~~Section 2. Legislative intent.~~ <—

11 ~~Medical care savings accounts shall be set forth to enhance~~
12 ~~health insurance availability for citizens of this Commonwealth,~~
13 ~~to improve the ability of citizens of this Commonwealth to~~

~~afford health care expenditures, to provide incentives to consider costs when requesting medical treatment, to encourage competition in the health care industry and to improve quality of health care. In order to alleviate the impoverishment of citizens of this Commonwealth requiring long term care, medical care savings accounts shall be set forth to promote saving for long term care and to provide incentives for individuals to protect themselves from financial hardship due to a long term health care need.~~

~~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 association, a federally chartered or State chartered savings bank or a federally chartered or State chartered credit union.~~

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

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

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

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

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

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

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

~~"Account holder." A person, including an employee of an employer who contributes to a medical care savings account for the employee's benefit and on whose behalf a medical care savings account is established.~~

~~"Deductible." The total covered medical expenses the account holder must pay prior to any payment by the high deductible plan.~~

~~"Dependent." The spouse of child of the account holder if the child is any of the following:~~

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

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

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

~~"Eligible medical expense." Medical care as defined by~~

~~section 213(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 213(d)), dental care, eye care, and long-term care. The term excludes premiums for all insurance except for a high deductible plan, long term care insurance, Medicare supplemental insurance, continuation coverage authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272, 100 Stat. 82), or conversion coverage authorized under the act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921.~~

~~"Health plan." A health policy, subscriber contract or certificate or plan or an employee welfare benefit plan providing medical care as defined by section 213(d) of the Internal Revenue Code (Public Law 99-514, 26 U.S.C. § 213(d)) to participants or beneficiaries directly or through insurance, reimbursement or otherwise.~~

~~"High deductible plan." A health plan which provides for payment of covered benefits in excess of the deductible. The deductible shall not be less than \$1,500 or more than \$5,000 for 1996. The minimum and maximum may be adjusted by the Insurance Department annually thereafter by a percentage equal to the previous year's change in the medical component of the National Consumer Price Index, provided dollar changes shall be rounded to the nearest multiple of \$50.~~

~~"Medical care savings account" or "account." An account established pursuant to a medical care savings account program to pay the eligible medical expenses of the account holder and his or her dependents.~~

~~"Medical care savings account program" or "program." A program that includes all of the following:~~

~~(1) The purchase by an account holder or by an employer~~

~~of a high deductible plan for the benefit of the account holder and dependents.~~

~~(2) A contribution to a medical care savings account by an account holder or an employer for the benefit of an account holder.~~

~~(3) An account administrator to administer the medical care savings account.~~

~~(4) A provision that allows account holders to designate a beneficiary or beneficiaries to whom account funds shall be transferred in case of the account holder's death.~~

~~Section 4. Medical care savings accounts.~~

~~(a) General rule. A person or an employer for the benefit of an employee may deposit cash contributions annually to a medical care savings account which shall not exceed \$2,500 for 1996 for an individual account holder and \$5,000 for an account holder with dependents for 1996. This maximum shall be adjusted by the Insurance Department annually by a percentage equal to the previous year's changes in the medical component of the National Consumer Price Index, provided dollar changes shall be rounded to the nearest multiple of \$50.~~

~~(b) Treatment of contribution, interest and reimbursements. For a medical care savings account the contribution to and interest earned on an account and account funds reimbursed to an account holder for eligible medical expenses are exempt from personal income taxable under Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~(c) Account by operation of law. Except as otherwise provided in this section, the account administrator shall utilize the funds held in a medical care savings account solely~~

~~for the purpose of paying providers for eligible medical expenses of the account holder and dependents or reimbursing the account holder for eligible medical expense payments.~~

~~(d) Restrictions on withdrawal. Medical care savings account funds may be withdrawn by the account holder for a purpose other than payment for eligible medical expenses, subject to the following restrictions and penalties:~~

~~(1) There shall be a distribution penalty payable to the Department of Revenue by the administrator on behalf of the account holder for withdrawal by the account holder of medical care savings account funds not used for eligible medical expenses. Account funds or any portion thereof used as security for a loan shall be treated as a disbursement. Such penalty shall be 10% of the amount of the withdrawal.~~

~~(2) The amount of withdrawal for other than eligible medical expenses shall be subject to personal income taxation under Article III of the Tax Reform Code of 1971.~~

~~(3) When a person ceases to qualify as a dependent under a high deductible plan, the account holder may within 60 days of such event transfer to an account administrator, without penalty or taxation, the premium necessary to purchase a new high deductible plan and funds to establish a medical care savings account program for the person no longer qualifying as a dependent under the prior high deductible plan.~~

~~(4) Disbursement arising out of bankruptcy. The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under 11 U.S.C. (relating to bankruptcy) by an account holder shall be considered a withdrawal for purposes of this section, except that the withdrawal shall not be subject to the 10% penalty~~

~~imposed under section 4(d)(1). The amount of a disbursement shall be subject to personal income taxation under Article III of the Tax Reform Code of 1971.~~

~~(c) Advance of funds. If an employer makes contributions to a medical care savings account program on a periodic installment basis, the employer may advance to an account holder, interest free, an amount necessary to cover an eligible medical expense that exceeds the amount in the account holder's medical care savings account when the expense is incurred if the account holder agrees to repay the advance from future installments or when the account holder ceases to be an employee of the employer.~~

~~(f) Reporting. An employer that offers a program shall inform all employees in writing of the Federal and State tax status of contributions made to an account under this act before making contributions.~~

~~(g) Treatment upon termination or change of employment. If an account holder is no longer employed by an employer that established a medical care savings account for that account holder:~~

~~(1) The account holder may request that the account remain with the former employer's account administrator. Such request must be made in writing within 60 days of the termination of employment. If the account administrator agrees to retain the account, the account shall not be subject to personal income taxation under the Tax Reform Code of 1971.~~

~~(2) If the new employer of the account holder offers medical care savings accounts, the account holder may transfer the medical care savings account to a new employer's~~

1 ~~account administrator. An account transferred to a new~~
2 ~~employer's account administrator shall not be subject to~~
3 ~~personal income taxation under the Tax Reform Code of 1971.~~

4 ~~(3) The account holder may transfer the medical care~~
5 ~~savings account to another account administrator. An account~~
6 ~~transferred to another account administrator shall not be~~
7 ~~subject to personal income taxation under the Tax Reform Code~~
8 ~~of 1971.~~

9 ~~(4) If the account administrator or a former employer~~
10 ~~does not agree to retain an account upon termination of~~
11 ~~employment, or if no request to retain the account or~~
12 ~~transfer the account to another account administrator is~~
13 ~~received by the account administrator, the account~~
14 ~~administrator must forward the balance of the account to the~~
15 ~~account holder within 90 days of termination of employment.~~
16 ~~The amount forwarded shall be subject to personal income~~
17 ~~taxation under the Tax Reform Code of 1971.~~

18 ~~(h) Treatment of funds upon death. Upon the death of the~~
19 ~~account holder, the account administrator shall distribute the~~
20 ~~account to the beneficiary designated in the account and the~~
21 ~~funds so distributed shall be subject to inheritance tax under~~
22 ~~Article XXI of the Tax Reform Code of 1971. In the event the~~
23 ~~beneficiary qualifies as a dependent as of the date of the~~
24 ~~account holder's death and utilizes account funds to establish a~~
25 ~~new or supplement an existing medical care savings account~~
26 ~~within 60 days of the date of the account holder's death, no~~
27 ~~inheritance tax shall be levied on any account funds so~~
28 ~~utilized. In the event the account holder has failed to~~
29 ~~designate a beneficiary, or the beneficiary designation has been~~
30 ~~rendered legally ineffective or inoperative for any reason, the~~

~~account administrator shall distribute the account to the
account holder's estate and the funds so distributed shall be
subject to inheritance tax under Article XXI of the Tax Reform
Code of 1971.~~

~~Section 5. Provisions not applicable.~~

~~A high deductible plan shall not be subject to any provision
of law requiring a minimum health insurance benefit or
reimbursement.~~

~~Section 6. Duties of account administrator.~~

~~(1) An account administrator shall cause to be issued to
participating account holders at least quarterly a statement
setting forth amounts remaining in their accounts.~~

~~(2) Except as otherwise provided in section 4, the
account administrator shall utilize the funds held in a
medical care savings account solely for the purpose of paying
the eligible medical expenses of the account holder or
dependents.~~

~~(3) The account holder may submit documentation of
medical expenses paid by the account holder 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 directly paid by the
account holder, provided supported documentation of such
payment has been submitted to the account administrator. The
account administrator shall reimburse the account holder
within 60 days of the date the documentation was submitted.~~

~~(4) An account administrator shall register with the
Insurance Department and pay an annual registration fee of
\$25. The registration fee shall be deposited in the General
Fund. Registration as an account administrator does not~~

~~affect the regulation of a bank, savings and loan
association, credit union, trust company or insurance company
as otherwise provided by law.~~

~~(5) The account administrator shall Notify account
holders in writing of changes in the Federal and State tax
status of contributions made to a medical care savings
account.~~

~~Section 7. Regulations.~~

~~(1) The Insurance Department and the Department of
Revenue shall promulgate regulations to implement, administer
and enforce this act.~~

~~(2) The Insurance Department may receive, investigate
and settle complaints about medical care savings accounts and
account administrators or it may refer complaints to other
appropriate agencies.~~

~~Section 8. Applicability.~~

~~This act shall apply to tax years beginning January 1, 1997,
and tax years thereafter.~~

~~Section 9. Repeals.~~

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

~~Section 10. Severability.~~

~~The provisions of this act are severable. If any provision of
this act or its application to any person or circumstance is
held invalid, the invalidity shall not affect other provisions
or applications of this act which can be given effect without
the invalid provision or application.~~

~~Section 11. Effective date.~~

~~This act shall take effect in 180 days.~~

~~SECTION 2. LEGISLATIVE INTENT.~~

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1 IT IS THE INTENT OF THE GENERAL ASSEMBLY TO EXTEND TO MEDICAL
2 CARE SAVINGS ACCOUNTS ESTABLISHED IN THIS COMMONWEALTH PURSUANT
3 TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
4 1996 (PUBLIC LAW 104-191 U.S.C.) EXEMPTION FROM STATE INCOME
5 TAX.

6 SECTION 3. TREATMENT OF CONTRIBUTION, INTEREST AND
7 REIMBURSEMENTS.

8 FOR A MEDICAL CARE SAVINGS ACCOUNT ESTABLISHED IN COMPLIANCE
9 WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
10 1996 (PUBLIC LAW 104-191, U.S.C.), THE CONTRIBUTION TO AND
11 INTEREST EARNED ON AN ACCOUNT AND ACCOUNT FUNDS REIMBURSED TO AN
12 ACCOUNT HOLDER FOR ELIGIBLE MEDICAL EXPENSES ARE EXEMPT FROM
13 PERSONAL INCOME TAXABLE UNDER ARTICLE III OF THE ACT OF MARCH 4,
14 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

15 SECTION 4. MANDATED BENEFITS.

16 HIGH DEDUCTIBLE PLANS SHALL BE SUBJECT TO ANY PROVISION OF
17 LAW REQUIRING A MINIMUM HEALTH INSURANCE BENEFIT OR
18 REIMBURSEMENT. HOWEVER, NOTHING SHALL PROHIBIT OR PREVENT THE
19 APPLICATION OF DEDUCTIBLES OR COPAYMENTS FOR THESE MINIMUM
20 BENEFITS BY THE INSURER ISSUING THE HIGH DEDUCTIBLE PLAN.

21 SECTION 5. EFFECTIVE DATE.

22 THIS ACT SHALL TAKE EFFECT JANUARY 1, 1997.