
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 902 Session of
2017

INTRODUCED BY FOLMER, MENSCH, VULAKOVICH, MARTIN, DiSANTO,
STEFANO AND BROWNE, SEPTEMBER 26, 2017

REFERRED TO BANKING AND INSURANCE, SEPTEMBER 26, 2017

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." As defined in section 152 of the Internal
18 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 152).

19 "Eligible individual." An individual taxpayer, including an

1 employee of an employer who is a government employee, who
2 contributes to a health savings account on the employee's behalf
3 and who:

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

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

8 (i) Coverage for accidents.

9 (ii) Workers' compensation insurance.

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

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

13 (v) Tort liabilities.

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

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

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

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

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

28 (i) unless it is in cash; or

29 (ii) to the extent such contribution, when added to
30 the previous contributions to the account for the

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

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

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

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

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

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

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

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

24 "High deductible." The term means:

25 (1) In the case of self-only coverage, an annual
26 deductible increased each year by a cost-of-living adjustment
27 that is not less than \$1,000 and the sum of the annual
28 deductible and other annual out-of-pocket expenses required
29 to be paid under a plan for covered benefits and that does
30 not exceed \$5,000.

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

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

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

15 "Qualified medical expense." An expense paid by a taxpayer
16 for medical care described in section 213(d) of the Internal
17 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 213(d)).
18 Section 3. Applicability and scope.

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

23 (b) Annual limitation on deposits.--For taxable years
24 beginning after December 31, 2015, a resident of this
25 Commonwealth or an employer shall be allowed to deposit
26 contributions to a health savings account. The amount of deposit
27 shall not exceed the amount of the plan's high deductible, nor
28 \$2,600 for an individual policy and \$5,150 for a family policy.

29 (c) Tax exemption.--Except as provided in section 5,
30 principal contributed to and interest earned on a health savings

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

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

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

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

23 Section 5. Withdrawals from health savings accounts.

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

28 (b) Tax consequences of certain withdrawals.--Subject to the
29 provisions of subsection (c), if an eligible individual
30 withdraws money from the individual's health savings account for

1 any purpose, other than a purpose described in section 4(a) at
2 any other time, all of the following apply:

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

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

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

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

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

29 (f) Effect of changed employment.--If an employee who is an
30 eligible employee becomes employed with a different employer

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

5 Section 6. Effective date.

6 This act shall take effect in 60 days.