



Sub. H.B. 46

126th General Assembly
(As Passed by the House)

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

BILL 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 subsidize premiums for 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 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

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>>.

"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 |

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

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.

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 bill))

Current law

Under current 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. Current law does not specifically mention the establishment and maintenance of health savings account programs by political subdivisions and boards of county commissioners.

The bill

The bill 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

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 current law unchanged by the bill, 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)).*

employees¹² (in the case of boards of county commissioners) may establish and maintain health savings accounts in accordance with the section of the Internal Revenue Code that governs health savings accounts.¹³

The bill also provides that with respect to political subdivisions and boards of county commissioners that decide to establish health savings account programs, public moneys may be used to subsidize premiums for 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 |

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

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

