

Health Care Reform and HSAs

At HSA Bank, we are committed to providing you with the knowledge and resources to help you best manage your Health Savings Account (HSA). With the passage of The Affordable Care Act in March 2010, we have received many questions about the legislation. We are providing you with a summary of what has changed and how the changes impact you and your HSA.

- **Qualified Medical Expenses:** Starting January 1, 2011 you will no longer be able to pay for over-the-counter medications from your HSA as a qualified medical expense. The new law removes over-the-counter drugs not prescribed by a physician from being paid from an HSA, FSA, or HRA on a tax-free basis.
- **Non-qualified expense penalty:** Under the new law, if you use your HSA funds for non-qualified expenses, you will face a higher penalty. The tax penalty for non-qualified HSA distributions will increase, effective January 1, 2011, from 10% to 20%.
- **Mandated insurance coverage:** Effective January 1, 2014, the legislation will require most U.S. Citizens and legal residents to have health insurance. It also outlines the minimum coverage and essential health benefits that need to be provided for a plan to qualify for the mandated coverage. This could potentially limit the types of health plans that will be available to consumers. Below are a few of the areas which require clarification by the Secretary of Health and Human Services:
 - **Preventive care services:** All insurance policies will be required to provide first dollar coverage for preventive care services. While HSA-compatible health plans are currently allowed to provide first-dollar coverage of preventive care services, in the future, all plans will be required to do so. These provisions will go into effect in 2014. Additionally, further clarification must be provided regarding what constitutes “preventive care” under the new regulations and whether or not that definition conflicts with current IRS guidance on what constitutes “preventive care” for HSA purposes.
 - **Minimum actuarial value:** All insurance policies will be required to provide a minimum actuarial value of at least 60 percent for the benefits covered. Clarity must be provided regarding how “actuarial value” is defined. It is also not clear whether a plan’s actuarial value would include employer or individual contributions made to the individual’s HSA. Including the contributions in the calculation of a plan’s actuarial value would make it easier for more HSA-compatible health plans to meet the minimum actuarial value requirement. If contributions are not included, many plans could no longer be sold.
- **Small employer benefit requirements:** The legislation also includes a provision that would prevent small employers from offering plans with deductibles greater than \$2,000 for singles and \$4,000 for families (indexed annually). Employers may offer plans with deductibles higher than \$2,000 / \$4,000 if the employer offers a flexible spending arrangement (FSA) that reimburses the difference between the higher deductible and \$2,000 / \$4,000. This provision will affect the health plans that can be offered to small employers and still qualify for HSA contributions. This provision goes into effect in 2014.
- **Excise tax on ‘Cadillac’ plans:** The new law will impose an excise tax of 40 percent on employer-sponsored coverage that has a benefit value in excess of \$10,200 for single coverage and \$27,500 for family coverage (indexed annually). The benefit value of employer-sponsored coverage would include the value of the group health plan and contributions to employees’ FSAs, HRAs, and HSAs. This tax would be imposed on insurance companies, including self-insured plans and plans sold in the group market, and plan administrators. However, this provision does not go into effect until 2018.

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- **Medical loss ratio requirement:** The new law imposes a “medical loss ratio” requirement. It would require a set percentage of premiums to be paid directly to medical claims. Since HSA-compatible plans have lower premiums, this may make it challenging for plans to meet the established ratios and still qualify for HSA coverage.

It is HSA Bank's (and many industry analysts') perspective that HSA plans may be necessary for health care reform to work – by providing affordable insurance options and encouraging people to become involved as conscious health care consumers. HSA plans may be the lifeline needed to provide any chance of success for health care reform by encouraging controls on healthcare spending, regardless of who is paying for it.

The above information is provided for general information purposes based on the current understanding and resources available concerning the new health care reform law. All information is subject to further clarification and change by the Secretary of Health and Human Services, along with IRS Guidance where appropriate. The information provided is not meant to serve as legal or tax advice. Always consult a legal or tax professional for your specific situation.

The links below provide further details and information about The Affordable Care Act.

<http://www.healthcare.gov/law/introduction/index.html>

<http://www.kff.org/healthreform/upload/finalhcr.pdf>

For assistance, please contact Client Assistance Center

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