

Employer Update

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Healthcare Reform and HSAs

As President Obama has signed into law far-reaching healthcare financing legislation, we wanted to provide an overview of the impacts to Health Savings Accounts (HSA). First, there will be no changes to HSAs the rest of this year. Some of the changes will be effective January 1, 2011. Here is what to expect:

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. Until the end of this year, you can reimburse yourself or pay from your HSA the money used to buy over-the-counter medications. 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 nonqualified 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.

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 then 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 healthcare 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 below resources provides further details and information concerning the healthcare reform legislation:

Kaiser Family Foundation – Summary of Health Care Reform

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

HSA Consulting Services

<http://hsaconsultingservices.com/wp-content/Health-Reform-Impact-on-CDHPs-010710.pdf>

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A thumbnail image of a form titled "Health Savings Account (HSA) Application and Eligibility Form". The form is a single page with various sections for personal information, account details, and eligibility criteria.

New One-page Application

In an effort to simplify the enrollment process for clients utilizing paper applications, HSA Bank has shortened our enrollment application from three pages down to one. To download the new application, [click here](#). Remember that you can now find your Federal Tax Identification Number and other associated codes at the bottom of the application.

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Amended IRS Form 5498-SA

Form 5498-SA serves as a confirmation of the total contributions attributable to tax year 2009. The form is mailed to the accountholder in January and then sent to the IRS between April 15, 2010 and May 31, 2010.

Employees who made contributions to their HSAs between January 1, 2010 and April 15, 2010 should file an amended tax return with an updated IRS Form 5498-SA that includes any 2009 contributions that were made in 2010 (contributions made in 2010 for the 2010 tax year do not need to be included in the amended form). Employees may download Form 5498-SA by logging in to Internet Banking; otherwise they will receive a paper copy of IRS Form 5498 from HSA Bank in May.

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