

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1928

By: Steele, Terrill and Kern of
the House

7 and

8 Crain of the Senate

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to insurance; amending Sections 2, 3,
12 4 and 5, Chapter 306, O.S.L. 2005 (36 O.S. Supp.
13 2006, Sections 6060.15, 6060.16, 6060.17 and
14 6060.18), which relate to the Health Savings Account
15 Act; modifying definitions; modifying provisions
16 related to maximum deposits in health savings
17 accounts; modifying restriction on eligible
18 expenditures; modifying provisions governing
19 treatment of interest for purposes of Oklahoma Income
20 Tax Act; requiring the State and Education Employees
21 Group Insurance Board to make the health savings
22 account available to eligible employees; specifying
23 time in which certain plan is offered; requiring
24 confirmation of Health Savings Account to certain
Board by employees; providing for codification; and
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 306, O.S.L.
2005 (36 O.S. Supp. 2006, Section 6060.15), is amended to read as
follows:

1 Section 6060.15 As used in this act:

2 1. "Deductible" means the total deductible for an eligible
3 individual and all the dependents of that eligible individual for a
4 calendar year;

5 2. "Dependent" means the spouse or child of the eligible
6 individual as defined in Section 152 of the Internal Revenue Code;

7 3. "Eligible individual" means the individual taxpayer,
8 including employees of an employer who contributes to health savings
9 accounts on the employees' behalf, who:

10 a. must be covered by a "high deductible health plan"
11 individually or with dependent,

12 b. may not be covered under any health plan that is not a
13 high deductible health plan, except for:

14 (1) coverage for accidents,

15 (2) workers' compensation insurance,

16 (3) insurance for a specified disease or illness,

17 (4) insurance paying a fixed amount per day per
18 hospitalization, and

19 (5) tort liabilities, and

20 c. establishes the health savings account, or on whose
21 behalf the health savings account is established;

22 4. "Health savings account" or "account" means a trust or
23 custodian established in this state pursuant to a health savings
24 account program exclusively to pay the qualified medical expenses of

1 an eligible individual or their dependents, but only if the written
2 governing instrument creating the account meets the following
3 requirements:

4 a. except in the case of a rollover contribution, no
5 contribution will be accepted:

6 (1) unless it is in cash, or

7 (2) to the extent the contribution, when added to the
8 previous contributions to the account for the
9 calendar year, exceeds ~~one hundred percent (100%)~~
10 ~~of the eligible individual's deductible or Two~~
11 ~~Thousand Six Hundred Dollars (\$2,600.00) for an~~
12 ~~individual or Five Thousand One Hundred Fifty~~
13 ~~Dollars (\$5,150.00) per family, whichever is~~
14 ~~lower~~ the maximum contribution amount pursuant to
15 Section 223 of the Internal Revenue Code,

16 b. the trustee or custodian is a bank, a credit union, an
17 insurance company, or another person approved by the
18 United States Secretary of Health and Human Services,

19 c. no part of the trust assets will be invested in life
20 insurance contracts,

21 d. the assets of the account will not be commingled with
22 other property except as allowed for under Individual
23 Retirement Accounts, and

24

1 e. eligible individual's interest in the account is
2 nonforfeitable;

3 5. "Health savings account program" or "program" means a
4 program that includes all of the following:

5 a. the purchase by an eligible individual or by an
6 employer of a high deductible health plan, and

7 b. the contribution into a health savings account by an
8 eligible individual or on behalf of an employee or by
9 their employer. The total annual contribution may not
10 exceed ~~the amount of the plan's higher deductible or~~
11 ~~the amounts listed in paragraph 8 of this section~~
12 maximum contribution amount pursuant to Section 223 of
13 the Internal Revenue Code;

14 6. "High deductible health plan" means a health coverage
15 policy, certificate, or contract that provides for payments for
16 covered benefits that exceed the higher deductible;

17 7. "Qualified medical expense" means an expense paid by the
18 taxpayer for medical care described in paragraph d of Section 213 of
19 the Internal Revenue Code, but only to the extent such amounts are
20 not compensated for by insurance or otherwise; and

21 8. "High deductible" means:

22 a. in the case of self-only coverage, an annual
23 deductible which is not less than One Thousand Dollars
24 (\$1,000.00) and the sum of the annual deductible and

1 other annual out-of-pocket expenses required to be
2 paid under the plan for covered benefits does not
3 exceed Five Thousand Dollars (\$5,000.00), or

4 b. in the case of family coverage, an annual deductible
5 of not less than Two Thousand Dollars (\$2,000.00) and
6 the sum of the annual deductible and other annual out-
7 of-pocket expenses required to be paid under the plan
8 for covered benefits does not exceed Ten Thousand
9 Dollars (\$10,000.00).

10 A plan shall not fail to be treated as a high deductible plan by
11 reason of failing to have a deductible for preventive care or, in
12 the case of network plans, for having out-of-pocket expenses which
13 exceed these limits on an annual deductible for services provided
14 outside the network.

15 SECTION 2. AMENDATORY Section 3, Chapter 306, O.S.L.
16 2005 (36 O.S. Supp. 2006, Section 6060.16), is amended to read as
17 follows:

18 Section 6060.16 A. The provisions of this act shall also apply
19 to taxpayers who are not receiving preferred federal tax treatment
20 for a health savings account pursuant to Section 223 of the Internal
21 Revenue Code.

22 B. For taxable years beginning after 2005, a resident of
23 Oklahoma or an employer shall be allowed to deposit contributions to
24

1 a health savings account. The amount of deposit for each year shall
2 not exceed ~~one of the following:~~

3 ~~1. The amount of the plan's high deductible; or~~

4 ~~2. Two Thousand Six Hundred Dollars (\$2,600.00) for an~~
5 ~~individual policy; or~~

6 ~~3. Five Thousand One Hundred Fifty Dollars (\$5,150.00) for a~~
7 ~~family policy~~ the maximum contribution amount pursuant to Section
8 223 of the Internal Revenue Code.

9 C. Except as provided in Section ~~5~~ 6060.18 of this ~~act~~ title,
10 the following are exempt from taxation under the Oklahoma Income Tax
11 Act:

12 1. Principal contributed to and interest earned on a health
13 savings account ~~up to the amount of the high deductible; and~~

14 2. Money reimbursed to an eligible individual or an employee
15 for qualified medical expenses.

16 SECTION 3. AMENDATORY Section 4, Chapter 306, O.S.L.
17 2005 (36 O.S. Supp. 2006, Section 6060.17), is amended to read as
18 follows:

19 Section 6060.17 ~~A.~~ The trustee or custodian shall utilize the
20 funds held in a health savings account solely for the following
21 purposes:

22 1. To pay the qualified medical expenses of the eligible
23 individual or their dependents; or

24

1 2. To purchase a health coverage policy certificate, or
2 contract, if the eligible individual:

3 a. is receiving unemployment compensation,

4 b. is exercising continuation privileges under federal
5 law, or

6 c. is purchasing a long-term care insurance contract; or

7 3. To pay for health insurance other than a Medicare
8 supplemental policy for those who are Medicare eligible.

9 ~~B. Funds held in a health savings account shall not be used to~~
10 ~~cover expenses of the eligible individual or their dependents that~~
11 ~~are otherwise covered, including, but not limited to, medical~~
12 ~~expenses covered by the following:~~

13 ~~1. An automobile insurance policy;~~

14 ~~2. Workers' compensation insurance policy or self insured plan;~~

15 or

16 ~~3. Another employer funded health coverage policy, certificate~~
17 ~~or contract.~~

18 SECTION 4. AMENDATORY Section 5, Chapter 306, O.S.L.
19 2005 (36 O.S. Supp. 2006, Section 6060.18), is amended to read as
20 follows:

21 Section 6060.18 A. Notwithstanding paragraphs C, D, E, and F
22 of this section, an eligible individual may withdraw money from
23 their health savings account for any purpose other than a purpose
24 described in ~~subsection A of Section 4~~ 6060.17 of this ~~act~~ title.

1 B. If the eligible individual withdraws money for any purpose
2 other than a purpose described in ~~subsection A of~~ Section 4 6060.17
3 of this ~~act~~ title, at any other time, all of the following shall
4 apply:

5 1. The amount of the withdrawal is income for the purposes ~~in~~
6 of the Oklahoma Income Tax Act in the tax year of the withdrawal;
7 and

8 2. ~~Interest earned on the account during the tax year in which~~
9 ~~a withdrawal under this subsection is made is income for the~~
10 ~~purposes of the Oklahoma Income Tax Act~~ The tax imposed on the
11 withdrawal which is includable in income shall be increased by ten
12 percent (10%) of the amount which is so includable.

13 C. The amount of disbursement of any assets of a health savings
14 account pursuant to a filing for protection under Section 101 of
15 Title 11 of the United States Code by an eligible individual or
16 person for whose benefit the account was established is not
17 considered a withdrawal for purposes of this section. The amount of
18 a disbursement is not subject to taxation under the Oklahoma Income
19 Tax Act and subsection B of this section does not apply.

20 D. The transfer of an eligible individual's interest in a
21 health savings account to an eligible individual's spouse or former
22 spouse under a divorce or separation instrument shall not be
23 considered a taxable transfer made by such eligible individual,
24 notwithstanding any other provision of this title, and the interest

1 shall, after the transfer, be treated as a health savings account
2 with respect to which the spouse is the eligible individual.

3 E. Upon the death of the eligible individual, the trustee or
4 custodian shall distribute the principal and accumulated interest of
5 the health savings account to the estate of the deceased.

6 F. If an employee becomes employed with a different employer
7 that participates in a health savings account program, the employee
8 may transfer their health savings account to that new employer's
9 trustee or custodian, or to an individually purchased account
10 program.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1375 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 The State and Education Employees Group Insurance Board shall
15 make the health savings account authorized by the provisions of the
16 Health Savings Account Act established in Section 6060.14 of Title
17 36 of the Oklahoma Statutes available to all persons who are
18 eligible employees for purposes of any health care insurance offered
19 through or under the supervision of the Board. The high deductible
20 health plan shall be offered no later than January 1, 2009. Any
21 employee who elects to participate in a high deductible health plan
22 offered through the Oklahoma State and Education Employees Groups
23 Insurance Board shall establish a Health Savings Account (HSA) as
24 defined in Section 223 of the Internal Revenue Code. The employee

1 shall provide confirmation of such account to the Oklahoma State and
2 Education Employees Group Insurance Board prior to the effective
3 date of coverage.

4 SECTION 6. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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