

THE HOUSE OF REPRESENTATIVES  
Tuesday, February 27, 2007

House Bill No. 1928

HOUSE BILL NO. 1928 - By: STEELE of the House and CRAIN of the Senate.

An act relating to insurance; amending Sections 2, 3, 4 and 5, Chapter 306, O.S.L. 2005 (36 O.S. Supp. 2006, Sections 6060.15, 6060.16, 6060.17 and 6060.18), which relate to the Health Savings Account Act; modifying definitions; modifying provisions related to maximum deposits in health savings accounts; modifying restriction on eligible expenditures; modifying provisions governing treatment of interest for purposes of Oklahoma Income Tax Act; requiring the State and Education Employees Group Insurance Board to make the health savings account available to eligible employees; providing for codification; and declaring an emergency.

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

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

3 Section 6060.15 As used in this act:

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

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

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

- 1 a. must be covered by a "high deductible health plan" individually or with  
2 dependent,  
3 b. may not be covered under any health plan that is not a high deductible  
4 health plan, except for:  
5 (1) coverage for accidents,  
6 (2) workers' compensation insurance,  
7 (3) insurance for a specified disease or illness,  
8 (4) insurance paying a fixed amount per day per hospitalization,  
9 and  
10 (5) tort liabilities, and  
11 c. establishes the health savings account, or on whose behalf the health  
12 savings account is established;

13 4. "Health savings account" or "account" means a trust or custodian established in  
14 this state pursuant to a health savings account program exclusively to pay the qualified  
15 medical expenses of an eligible individual or their dependents, but only if the written  
16 governing instrument creating the account meets the following requirements:

- 17 a. except in the case of a rollover contribution, no contribution will be  
18 accepted:  
19 (1) unless it is in cash, or  
20 (2) to the extent the contribution, when added to the previous  
21 contributions to the account for the calendar year, exceeds ~~one~~  
22 ~~hundred percent (100%) of the eligible individual's deductible or~~

1                   ~~Two Thousand Six Hundred Dollars (\$2,600.00) for an~~  
2                   ~~individual or Five Thousand One Hundred Fifty Dollars~~  
3                   ~~(\$5,150.00) per family, whichever is lower~~ the maximum  
4                   contribution amount pursuant to Section 223 of the Internal  
5                   Revenue Code,

- 6                   b.     the trustee or custodian is a bank, a credit union, an insurance
- 7                   company, or another person approved by the United States Secretary
- 8                   of Health and Human Services,
- 9                   c.     no part of the trust assets will be invested in life insurance contracts,
- 10                  d.     the assets of the account will not be commingled with other property
- 11                  except as allowed for under Individual Retirement Accounts, and
- 12                  e.     eligible individual's interest in the account is nonforfeitable;

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

- 15                  a.     the purchase by an eligible individual or by an employer of a high
- 16                  deductible health plan, and
- 17                  b.     the contribution into a health savings account by an eligible individual
- 18                  or on behalf of an employee or by their employer. The total annual
- 19                  contribution may not exceed the ~~amount of the plan's higher deductible~~
- 20                  ~~or the amounts listed in paragraph 8 of this section~~ maximum
- 21                  contribution amount pursuant to Section 223 of the Internal Revenue
- 22                  Code;

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

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

7           8. "High deductible" means:

- 8           a.       in the case of self-only coverage, an annual deductible which is not less  
9                    than One Thousand Dollars (\$1,000.00) and the sum of the annual  
10                   deductible and other annual out-of-pocket expenses required to be paid  
11                   under the plan for covered benefits does not exceed Five Thousand  
12                   Dollars (\$5,000.00), or
- 13           b.       in the case of family coverage, an annual deductible of not less than  
14                   Two Thousand Dollars (\$2,000.00) and the sum of the annual  
15                   deductible and other annual out-of-pocket expenses required to be paid  
16                   under the plan for covered benefits does not exceed Ten Thousand  
17                   Dollars (\$10,000.00).

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

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

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

6 B. For taxable years beginning after 2005, a resident of Oklahoma or an employer  
7 shall be allowed to deposit contributions to a health savings account. The amount of  
8 deposit for each year shall not exceed ~~one of the following:~~

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

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

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

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

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

17 2. Money reimbursed to an eligible individual or an employee for qualified medical  
18 expenses.

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

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

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

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

5           a.       is receiving unemployment compensation,

6           b.       is exercising continuation privileges under federal law, or

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

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

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

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

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

15          ~~3. Another employer-funded health coverage policy, certificate or contract.~~

16          SECTION 4. AMENDATORY    Section 5, Chapter 306, O.S.L. 2005 (36 O.S.  
17 Supp. 200, Section 6060.18), is amended to read as follows:

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

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

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

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

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

16 D. The transfer of an eligible individual's interest in a health savings account to an  
17 eligible individual's spouse or former spouse under a divorce or separation instrument  
18 shall not be considered a taxable transfer made by such eligible individual,  
19 notwithstanding any other provision of this title, and the interest shall, after the  
20 transfer, be treated as a health savings account with respect to which the spouse is the  
21 eligible individual.

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

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

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

11 The State and Education Employees Group Insurance Board shall make the health  
12 savings account authorized by the provisions of this act available to all persons who are  
13 eligible employees for purposes of any health care insurance offered through or under the  
14 supervision of the Board.

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

18 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
19 FINANCIAL SERVICES, dated 2-26-07 - DO PASS, As Coauthored.