

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1717

Short Title: Medical Savings Acct.

(Public)

Sponsors: Representatives Hardy; Aldridge, Allred, Capps, Shubert, and Watson.

Referred to: Insurance, if favorable, Finance.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MEDICAL SAVINGS ACCOUNT PLANS THE
CONTRIBUTIONS TO WHICH ARE DEDUCTIBLE FROM STATE TAXES
UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Article 50 of Chapter 58 of the General Statutes is amended by adding the following new sections to read:

"§ 58-50-158. Title and reference.

This section and G.S. 58-50-159 through G.S. 58-50-164 are known and may be referred to as the Medical Savings Account Act, referred to in those sections as 'this Act'.

"§ 58-50-159. Purpose and intent.

The purpose and intent of this Act is to provide incentives to North Carolina's citizens to help reduce their health care costs by planning for future medical care expenses, by foregoing unnecessary medical treatment, and by seeking the best value for their health care dollars when treatment is necessary. To that end, this Act authorizes the establishment of medical savings account plans, contributions to which are State income tax deductible to the extent that funds disbursed from the account are used to pay eligible medical expenses of the account holder.

"§ 58-50-160. Definitions.

As used in this Act, unless the context clearly requires otherwise, the term:

- 1 (1) 'Account administrator' means any of the following:
2 a. A nationally or State-chartered: bank, savings and loan
3 association, savings bank, or credit union;
4 b. A trust company authorized to act as a fiduciary;
5 c. An insurance company, health maintenance organization, or
6 hospital or medical service corporation authorized to do business
7 in this State;
8 d. A third-party administrator;
9 e. A certified public accountant; or
10 f. An employer, if the employer has a self-insured health plan under
11 ERISA.
- 12 (2) 'Account holder' means the individual or employee for whose benefit a
13 medical savings account is established.
- 14 (3) 'Commissioner' means the Commissioner of Insurance.
- 15 (4) 'Deductible' means the total covered medical expense the employee or
16 employee's dependents must pay prior to any payment by the HDC
17 coverage provided under the Plan.
- 18 (5) 'Eligible dependent' or 'dependent' means the spouse or a child of the
19 account holder if the child is any of the following:
20 a. Under 19 years of age, or under 23 years of age and enrolled as a
21 full-time student at an accredited college or university.
22 b. Legally entitled to the provision of proper or necessary
23 subsistence, education, medical care, or other care necessary for
24 his or her health guidance, or well-being and not otherwise
25 emancipated, self-supporting, married, or a member of the armed
26 forces of the United States.
27 c. Mentally or physically incapacitated to the extent that he or she is
28 not self-sufficient.
- 29 (6) 'Eligible medical expense' means an expense paid by a taxpayer for
30 medical care as described in section 213(d) of the Internal Revenue
31 Code except that the term does not include medical expenses of the
32 account holder or the account holder's covered dependents that are
33 covered by the account holder's automobile insurance policy, workers'
34 compensation insurance policy, self-insured plan, or other health
35 insurance coverage, or that another third party is obligated to cover.
- 36 (7) 'Employee' means the individual for whose benefit, or for the benefit of
37 whose dependents, a medical savings account is established. The term
38 includes a self-employed individual.
- 39 (8) 'Employer' includes self-employed individuals.
- 40 (9) 'High deductible catastrophic health care coverage' or 'HDC coverage'
41 means a health care coverage policy, certificate, contract, evidence of
42 coverage issued by a health maintenance organization or preferred
43 provider organization, or other type of health care coverage that:

- 1 a. Requires a deductible of not less than one thousand five hundred
2 dollars (\$1,500) for coverages for a single individual and not less
3 than three thousand dollars (\$3,000) for coverages for a single
4 individual and one or more dependents, and
5 b. That provides for payments for or arranges for the provision of
6 covered health care benefits that exceed the policy, certificate, or
7 contract deductible, that is purchased by an employer for the
8 benefit of an employee, and that meets the requirements of G.S.
9 58-50-161.

10 In no event shall the deductible for any coverage described in this
11 subdivision exceed five thousand dollars (\$5,000).

12 (10) 'Medical savings account' or 'MSA' or 'Account' means an account
13 established by an employer under a Medical Savings Account Plan to
14 pay the eligible medical expenses of the account holder and the account
15 holder's covered dependents.

16 (11) 'Medical Savings Account Plan' or 'Plan' means a health care coverage
17 plan that is comprised of HDC coverage and a medical savings account
18 established to receive and disburse funds contributed by the account
19 holder or the account holder's employer, or both, to pay for eligible
20 medical expenses of the account holder and the account holder's covered
21 dependents.

22 **"§ 58-50-161. Medical Savings Account Plan authorized; coverage requirements;**
23 **account contributions; enrollment requirements; distribution upon death**
24 **of account holder.**

25 (a) Authorization. – Effective January 1, 1999, an employer may offer to its
26 employees health care coverage in the form of a Medical Savings Account Plan. In order
27 to qualify for the tax treatment authorized under G.S. 105-130.5 and G.S. 105-134.6, the
28 Plan shall include both:

29 (1) High deductible catastrophic health care coverage that meets the
30 requirements of this Act, and

31 (2) A medical savings account established in accordance with this Act.

32 An employer that establishes a Medical Savings Account Plan shall, before making
33 any contribution to an MSA under the Plan, inform the employee in writing of the federal
34 and State tax status of contributions made by the employer and the employee to the MSA
35 under this Act. Employers shall also offer to assist employees in determining the most
36 appropriate health care coverage option among those offered by the employer, and how to
37 use a Medical Savings Account Plan if that option is chosen by the employee.

38 An employer who offers an MSA Plan shall provide for each account holder a funds
39 verification card that when presented by the employee to a health care provider will
40 enable the health care provider to ascertain the status of the employee's coverage under
41 the Plan.

42 (b) Coverage Requirements. – HDC coverage shall qualify as part of a Medical
43 Savings Account Plan if the coverage:

- 1 (1) Is a policy, certificate, contract, or other type of health care coverage
2 purchased by the employer for an employee. The coverage may include
3 the employee's eligible dependents; and
4 (2) Provides for the payment of covered medical expenses that exceed the
5 deductible, copayments, or coinsurance required under the policy,
6 certificate, contract, or other type of health care coverage.

7 Except as otherwise required by State or federal law, the extent of coverage of the
8 services required under this subsection, and any other services that may be covered under
9 the HDC coverage are within the discretion of the employer.

10 (c) Enrollment Requirements. – An employer who offers an MSA Plan may not
11 establish different enrollment period requirements for employees covered under the MSA
12 Plan than for employees covered under other health benefit plans offered by the
13 employer. An employee and covered dependents who change health benefit plans
14 offered by the same employer shall receive credit for any preexisting condition waiting
15 period, or portion thereof, satisfied under the prior plan, provided that fewer than 60 days
16 have elapsed between participation in the prior plan and enrollment in the new plan. If
17 the eligible dependents of an employee are covered under a basic or standard plan
18 covering the employee, then the employee's dependents must also be covered under an
19 MSA Plan covering the employee.

20 (d) Account Contributions. – If an employer makes contributions to a medical
21 savings account program on a periodic installment basis, the employer may advance to an
22 employee, interest free, an amount necessary to cover medical expenses incurred that
23 exceed the amount in the employee's medical care savings account when the expense is
24 incurred, if the employee agrees to repay the advance from future installments, or when
25 the employee ceases to be an employee of the employer.

26 (e) Distribution of Account Funds Upon Death of Account Holder. – Upon the
27 death of the account holder, all funds in the MSA shall be distributed to the decedent's
28 estate.

29 **"§ 58-50-162. Uses of funds in medical savings account.**

30 (a) Funds that accumulate in a medical savings account as a result of contributions
31 to the account or as a result of interest or dividends earned on funds in the account may
32 be used to pay for eligible medical expenses and long-term care services or long-term
33 care insurance premiums for the employee and covered dependents. Account funds may
34 also be used to pay for the continuation of health care coverage through payment of
35 premiums for the coverage during periods of unemployment or of transition from one
36 medical savings account plan to another. Funds that are unexpended from an MSA may
37 accumulate from year to year and shall remain exempt from taxation as long as the funds
38 remain in the MSA or are used to pay for eligible expenses.

39 (b) Funds held in an MSA are the property of the account holder and may be
40 withdrawn for any reason. Account funds withdrawn for any purpose other than those
41 authorized under subsection (a) of this section shall be subject to taxation in accordance
42 with G.S. 105-134.6 and a penalty. The penalty is ten percent (10%) of the amount
43 withdrawn.

1 (c) If an account holder's employment is terminated by the employee or employer,
2 the account holder may do the following without subjecting the funds to taxation or
3 penalty:

4 (1) Use the funds in the account holder's MSA to:

5 a. Continue to pay premiums of the Plan established by the former
6 employer for the account holder,

7 b. Purchase a health benefit plan for the account holder's
8 dependents, or

9 c. Pay for any other eligible expense; or

10 (2) Deposit funds from the MSA established by the former employer into a
11 new MSA established by the account holder's new employer.

12 **"§ 58-50-163. Account administration.**

13 (a) MSAs shall be administered by an account administrator selected by the
14 employer. The employer may change the account administrator at any time. Account
15 funds shall be deposited in an insured account in a financial institution, in trust, in the
16 account administrator's name as trustee for the benefit of the account holder. The account
17 administrator may establish an individual trust fund for each account holder or one or
18 more common trust funds for some or all of the medical savings accounts administrated
19 by the administrator. Funds in an MSA shall not be commingled with any other property
20 except in a common trust fund. The account administrator shall keep accounting records
21 for each account holder showing the amounts deposited and interest, dividends, increases,
22 and accretions earned. All interest, dividends, increases, or accretions earned by the
23 funds shall remain with the principal.

24 (b) The account administrator may disburse funds held in an MSA only for the
25 following purposes:

26 (1) To pay the eligible medical expenses, long-term care services, or long-
27 term care insurance premiums of the account holder or the account
28 holder's covered dependents;

29 (2) To pay for the continuation of health care coverage through payment of
30 premiums for the coverage during periods of unemployment or of
31 transition from one medical savings account plan to another;

32 (3) To purchase a health coverage policy, certificate, contract, or other
33 health care coverage if the account holder does not otherwise have
34 health insurance coverage;

35 (4) To reimburse the account holder for eligible medical expenses of the
36 account holder or covered dependents that were paid by the account
37 holder; and

38 (5) For any purpose in accordance with subsection (c) of this section.

39 (c) The account holder may direct the account administrator to withdraw and pay
40 to the account holder funds in the MSA for any purpose other than those authorized under
41 G.S. 58-50-162(a), provided that withdrawals for noneligible purposes may not be made
42 more frequently than once per calendar quarter. Funds withdrawn pursuant to this
43 subsection are subject to tax as provided under G.S.105-134.6 and penalty as provided

1 under G.S. 58-50-162. Penalties shall be collected by the account administrator and
2 remitted within 30 days to the Commissioner for deposit to the General Fund.

3 **"§ 58-50-164. Commissioner to adopt rules.**

4 The Commissioner of Insurance may adopt rules to implement this act."

5 Section. 2. Effective January 1, 1999, G.S. 58-67-35 is amended by adding the
6 following new subsection to read:

7 "(c) Notwithstanding G.S. 58-67-5, an HMO may develop a plan, subject to the
8 approval of the Commissioner, that will permit participation by the HMO in a Medical
9 Savings Account Plan as defined under G.S. 58-50-160."

10 Section 3. G.S. 105-134.6(d) is amended by adding a new subdivision to read:

11 "(4) Medical savings account. – As used in this subdivision, the term
12 'medical savings account' has the meaning provided in G.S. 58-50-160.
13 No deduction is allowed under this subdivision with respect to a
14 medical savings account that is not in compliance with the provisions of
15 the Medical Savings Account Act, G.S. 58-50-158 through G.S. 58-50-
16 164.

17 To the extent it is included in taxable income, a taxpayer may deduct
18 (i) a contribution to the taxpayer's or the taxpayer's employee's medical
19 savings account during the taxable year and (ii) interest and dividends
20 earned on the taxpayer's medical savings account during the taxable
21 year. If a taxpayer withdraws funds from the taxpayer's medical savings
22 account during the taxable year, other than for a purpose authorized by
23 G.S. 58-50-162(a), the taxpayer shall add the amount withdrawn to
24 taxable income to the extent it is not included in taxable income."

25 Section 4. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

26 "(17) To the extent they are included in federal taxable income, the taxpayer's
27 contributions to the taxpayers' employees' medical savings accounts
28 made during the taxable year in accordance with the Medical Savings
29 Account Act, G.S. 58-50-158 through G.S. 58-50-164."

30 Section 5. Effective January 1, 1999, G.S. 143-622(21) reads as rewritten:

31 "(21) 'Qualified health care plans' means the basic or standard health care
32 plans offered by an Accountable Health Carrier to member small
33 employers and as authorized by the Small Employer Carrier Committee
34 pursuant to ~~G.S. 58-50-120~~ G.S. 58-50-120, a catastrophic health care
35 plan, and one additional plan. This additional plan shall be strictly
36 limited to medical benefits and shall not be instituted with any elements
37 of dental benefits. For the purposes of this section, "medical" does not
38 include any elements of life, property and casualty, or workers'
39 compensation benefits."

40 Section 6. Effective January 1, 1999, G.S. 143-626(2) reads as rewritten:

41 "(2) Accept applications by carriers to qualify as Accountable Health
42 Carriers, determine the eligibility of carriers to become Accountable
43 Health Carriers according to criteria described in G.S. 143-629,

1 designate carriers as Accountable Health Carriers, approve one
2 additional qualified health care plan to be offered to small employers
3 beyond the ~~basic and standard~~ basic, standard, and catastrophic health
4 care plans, and approve programs that provide options for the purchase
5 of private insurance for dependent coverage that meets the requirements
6 of the Health Insurance Program for Children established under Part 8
7 of Article 2 of Chapter 108A of the General Statutes and Title XXI of
8 the Social Security Act. The Board shall report programs approved to
9 the Joint Legislative Health Care Oversight Committee established
10 under G.S. 120-70.110."

11 Section 7. Sections 3 and 4 of this act are effective for taxable years beginning
12 on or after January 1, 1999. The remainder of this act is effective when it becomes law.