

SB

94



SENATOR FRED DYSON

MEMORANDUM

April 1, 2005

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

From: Senator Fred Dyson

RE: Hearing Request, SB 94

I respectfully request the scheduling of SB 94, "An Act Related to Health Savings Accounts" at your earliest convenience. Thank You.

24-LS0257G

Craver

4/1/05

CS FOR SENATE BILL NO. 94()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY**Offered:****Referred:****Sponsor(s): SENATORS DYSON, Davis****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to state employee health plans that give employees the option to select a**
2 **high deductible health plan so as to qualify to establish a health savings account."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 STATEMENT OF PURPOSE OR INTENT. It is the intent of this Act to promote the
7 use of health savings accounts and to demonstrate the value of this method of patient control
8 of the patient's dollars by directing the state, as an employer, to make this option available to
9 state employees. When the state offers its employees a health plan, one of the options shall be
10 a high deductible health plan so that a state employee may establish a health savings account.
11 The federal government made a significant change to the health care financing system on
12 January 1, 2004, by allowing individuals to participate in federally qualified health savings
13 accounts. These accounts may be established with pre-tax money when an individual has
14 health insurance coverage under a high deductible health plan. Insurance costs will be

1 lowered by the use of health policies that do not cover, at a minimum, the first \$1,000 in
2 health costs each year for an individual or, at a minimum, the first \$2,000 in health costs each
3 year for families. Individuals covered by these high deductible policies will be able to use
4 pre-tax dollars to save up to \$2,600 annually or \$5,150 annually for families. Patients will
5 skip unneeded treatments and will be able to go to the provider of choice for treatment.
6 Individuals and families will continue to be covered by insurance for high cost medical
7 events, such as accidents or serious illnesses. Health savings accounts are owned by the
8 individual, roll over from year to year and are available for tax-free withdrawals to cover
9 qualified medical costs, such as routine medical office visits, physicals, and simple tests.
10 Health savings accounts are trusts administered by banks and insurance companies.

11 * Sec. 2. AS 39.30.090(a)(1) is amended to read

12 (1) A group insurance policy shall provide one or more of the
13 following benefits: life insurance, accidental death and dismemberment insurance,
14 weekly indemnity insurance, hospital expense insurance, surgical expense insurance,
15 dental expense insurance, audiovisual insurance, or other medical care insurance. If a
16 health plan is provided, employees shall have the option of selecting a high
17 deductible health plan.

18 * Sec. 3. AS 39.30.090(b) is amended by adding a new paragraph to read:

19 (4) "high deductible health plan" means a health plan with a high
20 annual deductible limit that qualifies an individual covered under the health plan or an
21 employer to make contributions to a health savings account under 26 U.S.C. 223.



SENATOR FRED DYSON

SPONSOR STATEMENT

SB 94 – “An Act relating to state employee Health Savings Accounts.”

Under a new federal law, Alaskans (and/or their employers) can contribute up to \$2,600 annually into their Health Savings Account (HSA). Families are allowed up to \$5,150 per year. This pre-tax money can be withdrawn from HSAs to pay for a wide range of health care services including, but not limited to, acupuncture, braille books, dental services, artificial limbs, and guide dogs. At the end of the year, residuals in the account roll over to add to the principle for the future.

HSAs must be accompanied by a High Deductible Health Plan (HDHP) to cover the cost of catastrophic injuries or illness. If an employer wants to ensure that there is an incentive for first-dollar expenditures to go for preventative care, benefits for physicals and selected appropriate tests can be part of the HDHP insurance package rather than paid for out of the HSA.

The potential benefits of HSAs are many:

- HSAs stay with a patient regardless of employer or employment status;
- HSA owners can roll over unused funds at the end of each year; Rolled over funds can result in large nest eggs available upon retirement;
- Perhaps most significantly, HSAs create incentives for HSA holders to use their health care dollars in an efficient manner. As more people participate, this will have positive ripple-effects on the health care marketplace as more consumers demand greater pricing, billing and quality transparency from providers.
- Patients who own HSAs call the shots in how they access the health care system. It eliminates “pre-approval” restrictions empowers them with the ability to pay promptly and in full for services they wish to purchase.

SB 94 simply requires that state employees have an HDHP option that qualifies an individual or an employer to make contributions into an HSA.

Updated 2/3/05

Frequently Asked Questions (provided by US Department of Treasury)

What is a Health Savings Account ("HSA")?

A Health Savings Account is an alternative to traditional health insurance; it is a savings product that offers a different way for consumers to pay for their health care. HSAs enable you to pay for current health expenses and save for future qualified medical and retiree health expenses on a tax-free basis.

You must be covered by a High Deductible Health Plan (HDHP) to be able to take advantage of HSAs. An HDHP generally costs less than what traditional health care coverage costs, so the money that you save on insurance can therefore be put into the Health Savings Account.

You own and you control the money in your HSA. Decisions on how to spend the money are made by you without relying on a third party or a health insurer. You will also decide what types of investments to make with the money in the account in order to make it grow.

What is a "High Deductible Health Plan" (HDHP)?

You must have an HDHP if you want to open an HSA. Sometimes referred to as a "catastrophic" health insurance plan, an HDHP is an inexpensive health insurance plan that generally doesn't pay for the first several thousand dollars of health care expenses (i.e., your "deductible") but will generally cover you after that. Of course, your HSA is available to help you pay for the expenses your plan does not cover.

In order to qualify to open an HSA, your HDHP minimum deductible must be at least \$1,000 (self-only coverage) or \$2,000 (family coverage). The annual out-of-pocket (including deductibles and co-pays) cannot exceed \$5,100 (self-only coverage) or \$10,200 (family coverage). HDHPs can have first dollar coverage (no deductible) for preventive care and apply higher out-of-pocket limits (and copays & coinsurance) for non-network services.

How can I get a Health Savings Account?

Consumers can sign up for HSAs with banks, credit unions, insurance companies and other approved companies. Your employer may also set up a plan for employees as well.

How much does an HSA cost?

An HSA is not something you purchase; it's a savings account into which you can deposit money on a tax-preferred basis. The only product you purchase with an HSA is a High Deductible Health Plan, an inexpensive plan that will cover most of your medical expenses should your expenses exceed the funds you have in your HSA.

Who is eligible for a Health Savings Account?

To be eligible for a Health Savings Account, an individual must be covered by a HSA-qualified High Deductible Health Plan (HDHP) and must not be covered by other health insurance that is not an HDHP. Certain types of insurance are not considered "health insurance" (see below) and will not jeopardize your eligibility for an HSA.

Can I get an HSA even if I have other insurance that pays medical bills?

You are only allowed to have auto, dental, vision, disability and long-term care insurance at the same time as an HDHP. You may also have coverage for a specific disease or illness as long as it pays a specific dollar amount when the policy is triggered. Wellness programs offered by your employer are also permitted if they do not pay significant medical benefits.

NEW - Does the HDHP policy have to be in my name to open an HSA?

No, the policy does not have to be in your name. As long as you have coverage under the HDHP policy, you can be eligible for an HSA (assuming you meet the other eligibility requirements for contributing to an HSA). You can still be eligible for an HSA even if the policy is in your spouse's name.

I don't have health insurance, can I get an HSA?

Unfortunately, you cannot establish and contribute to an HSA unless you have coverage under a HDHP.

I'm on Medicare, can I have an HSA?

You are not eligible for an HSA after you have enrolled in Medicare. If you had an HSA before you enrolled in Medicare, you can keep it. However, you cannot continue to make contributions to an HSA after you enroll in Medicare.

I am a Veteran, can I have an HSA?

If you have received any health benefits from the Veterans Administration or one of their facilities, including prescription drugs, in the last three months, you are not eligible for an HSA.

I'm active-duty military and have Tricare coverage, can I have an HSA?

At this time, Tricare does not offer an HDHP options so you are not eligible for an HSA.

My employer offers an FSA, can I have both an FSA and an HSA?

You can have both types of accounts, but only under certain circumstances. General Flexible Spending Arrangements (FSAs) will probably make you ineligible for an HSA. If your employer offers a "limited purpose" (limited to dental, vision or preventive care) or "post-deductible" (pay for medical expenses after the plan deductible is met) FSA, then you can still be eligible for an HSA.

My employer offers an HRA, can I have both an HRA and an HSA?

You can have both types of accounts, but only under certain circumstances. General Health Reimbursement Arrangements (HRAs) will probably make you ineligible for an HSA. If your employer offers a "limited purpose" (limited to dental, vision or preventive care) or "post-deductible" (pay for medical expenses after the plan deductible is met) HRA, then you can still be eligible for an HSA. If your employer contributes to an HRA that can only be used when you retire, you can still be eligible for an HSA.

My spouse has an FSA or HRA through their employer, can I have HSA?

You cannot have an HSA if your spouse's FSA or HRA can pay for any of your medical expenses before your HDHP deductible is met.

I don't have a job, can I have an HSA?

Yes, if you have coverage under an HDHP. You do not have to have earned income from employment – in other words, the money can be from your own personal savings, income from dividends, unemployment or welfare benefits, etc.

Does my income affect whether I can have an HSA?

There are no income limits that affect HSA eligibility. However, if you do not file a federal income tax return, you may not receive all the tax benefits HSAs offer.

Can I start an HSA for my child?

No, you cannot establish separate accounts for your dependent children, including children who can legally be claimed as a dependent on your tax return.

I'm a single parent with HDHP coverage but have child/relative that can be claimed as a dependent for tax purposes, and this dependent also has non-HDHP coverage. Am I still eligible for an HSA?

Yes, you are still eligible for an HSA. Your dependent's non-HDHP coverage does not affect your eligibility, even if they are covered by your HDHP.

As an employer, do I own my employees' HSAs? Can I control how they spend the money in them?

No, you do not own your employees' HSAs. The employee fully owns the contributions to the account as soon as they are deposited, just as with a personal checking or savings account to which you would deposit their compensation.

My employees want to contribute to their HSAs but want to make sure they get a tax benefit out of doing so. How does that work?

Employee contributions can be made to HSAs on either after-tax or pre-tax basis. If made on an after-tax basis they should be counted as an above-the-line deduction on their tax return, effectively making their contributions tax-free. If they want to make the contribution pre-tax it can be done through a Section 125 (also called a "salary reduction" or "cafeteria plan").

How much do I have to contribute to my employees' HSA, as an employer?

As much or as little as you want (while staying below the legal limit on the account of \$2,600 or \$5,150 for employees with family coverage).

Do HSA contributions have to be made in equal amounts each month?

No, you can contribute in a lump sum or in any amounts or frequency you wish. However, keep in mind that the funds belong to the employee after they are deposited.

As an employer, do I have to contribute the same amount to every employee's HSA?

Employer contributions must be "comparable", that is they must be in the same dollar amount or same percentage of the employee's deductible for all employees in the same "class". You can vary the level of contributions for "full-time" vs. "part-time" employees, and employees with "self-only" coverage vs. "family coverage". You do not need to consider employees who do not have HDHP coverage as they are not eligible for HSA contributions.

Our company offers benefits through a Section 125 plan, do contributions have to be comparable under these plans as well?

Section 125 plans (also known as "salary reduction" or "cafeteria" plans) must meet a different set of rules. Under these plans, contributions (both from employer and/or employee) must meet "non-discrimination" rules. These rules require the employer to ensure that contributions do not favor higher compensated employees.

Our company wants to offer "matching" contributions, can we do that?

Yes, but your company can only offer "matching" contributions through a Section 125 plan. Remember that the non-discrimination rules still apply.

I don't offer health insurance, but some of my employees have opened HSAs and I'd like to help them out, what can I do?

Your company can make pre-tax contributions to your employees' HSAs as long as you do so for all eligible employees. However, the comparability rules apply. If you have a Section 125 plan, then the non-discrimination rules apply.

How are contributions treated for owners and shareholders of S corps?

Owners and officers with greater than 2% share of a Subchapter S corporation cannot make pre-tax contributions to their HSAs through the company by salary reduction. In addition, any contributions made to their HSAs by the corporation are taxable as income. However, they can make their own personal contributions to their HSAs and take the "above-the-line" deduction on their personal income taxes.

How are contributions treated for partners in a partnership or limited liability company (LLC)?

Partners in a partnership or LLC cannot make pre-tax contributions to their HSAs through the partnership by salary reduction. However, they can make their own personal contributions to their HSAs and take the "above-the-line" deduction on their personal income taxes.

May a self-employed person contribute to an HSA on a pre-tax basis?

No. Self-employed persons may not contribute to an HSA on a pre-tax basis and may not take the amount of their HSA contribution as a deduction for SECA purposes. However, they may contribute to an HSA with after-tax dollars and take the above-the-line deduction.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 94
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act establishing a health care option for a RDU Centralized Administrative Services
high deductible health plan and a health savings account. Component Retirement and Benefits
 Sponsor Senator Dyson
 Requester HESS Component No. 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|-------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | 35.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 35.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|-------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1017 Group Benefits | 35.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL | 35.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2005) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)
 This bill would add another option for employees (5,300 members) who participate in Select Benefits Health Plan to include a high deductible health plan, which would allow establishment of a health savings account.

 The fiscal impact associated with this bill includes having the Division's benefit consultant redesign the existing benefit options to include a high deductible plan.

Prepared by: Melanie Millhorn, Director Phone 465-4408
 Division: Retirement and Benefits Date/Time 4/12/05 7:06 AM
 Approved by: Mike Tibbles, Deputy Commissioner Date 4/12/2005
 Agency: Department of Administration

Health Savings Accounts: What You Need to Know

Laura Trueman, Executive Director

QuickTime™ and
PDF (LZW) decompressor
are needed to see this picture

HSA Overview

- A Health Savings Account (HSA) is a new way to have health insurance and establish a tax advantaged savings account for medical expenses.
- The account -- Health Savings Account (HSA) -- allows people to put money in and take money out tax-free, if it is spent on medical care.
- HSAs were created in Medicare legislation and signed into law on December 8, 2003.

Who Can Open A Health Savings Account?

- Anyone who has a qualified “High Deductible Health Plan” (HDHP).
- For 2006 HSA plans, a high deductible health plan has a minimum deductible of \$1050 for individuals and \$2100 for families.

Do HSA Owners Have Any Protections on How Much They Must Spend Out of Pocket?

- YES!
- Annual out-of-pocket expenses (including deductibles and co-pays) cannot exceed (for 2006):
 - \$5,250 (self-only coverage)
 - \$10,500 (family coverage)
 - Those amounts are indexed annually for inflation

Won't HSA Owners be Tempted to Skip Medical Care Since it Comes out of their pocket First?

- All Preventative Care is paid for at 100% coverage. The incentive is to encourage people to be proactive in managing their health.
- All physicals, mammograms, colonoscopies, and a whole host of other preventative services and drugs are covered with no copayment.

In Fact --- HSAs Do More to Encourage Preventative Care than Traditional Coverage

- Many traditional policies require that you meet an individual deductible or family deductible before they begin making payments. Then, they require copayments, usually 20%
- In comparison, HSA owners have no required deductible or copayments in order to receive 100% payment for preventative care, drugs, or diagnostic services.

HSA Rules 2006

| Single | | |
|-------------------|---------------------|----------------------|
| Deductible | Contribution | Out-of-Pocket |
| \$1050 | \$2700 | \$5250 |
| Family | | |
| \$2100 | \$5450 | \$10,500 |

2006 HSA Contribution Rules

| | HDHP Deductible | Maximum HSA Contribution (2005) |
|--------------------|--------------------|---------------------------------------|
| Single Coverage | \$1,050 | \$1,050 |
| | \$1,500 | \$1,500 |
| | \$2,000 | \$2,000 |
| | \$2,700 | \$2,700 |
| | \$3,000 | \$2,700 |
| Family Coverage | \$2,100 | \$2,100 |
| | \$3,000 | \$3,000 |
| | \$4,000 | \$4,000 |
| | \$5,000 | \$5,000 |
| | \$6,000 | \$5,450 |

What About Prescription Drugs?

- Current status: HSA owners can have a separate prescription drug plan and receive insurance coverage for their expenses on drugs even before the \$1050 deductible is met.
- Beginning in 2006, the transition period will end. Prescription drugs will be like all other medical expenses and they must pay the full cost of prescriptions with their own dollars until their deductible is met before coverage kicks in.
- **Important Exception:** Preventative Drugs are covered at 100% before any deductible is met.

If I Pay “Cash” for Drugs and Medical Services by Using My HSA Account, Won’t I Be Stuck With the Highest Dollar Charge for those Services?

- No. You will receive the best negotiated rate that has been obtained by the insurance carrier... you will not be paying the usual (and often highest) prices that cash-paying customers are often charged.

Tax Treatment of HSA Expenditures

- Distribution is tax-free if taken for “qualified medical expenses”
 - Includes over-the-counter drugs
 - Premiums for qualified long-term care insurance
 - Dental and orthodontia treatment
 - Plastic Surgery
 - Mental Health treatment
 - Liberal definition of “qualified medical expenses”

HSA Owners Get Choice

- Consumers can decide what medical expenditures are most important to them, rather than having to weigh what is covered and what is not covered under a policy.
- Example: Smith family has general good health, but all three kids need braces. Traditional coverage does not provide coverage for this. However, under HSA plan, they can use their account to pay for the braces. If the braces cost a total of \$12,000 for the three children, the HSA owner could save up to \$4000 for the treatment, depending on their tax bracket.

Other HSA Advantages

- **Portability:** Health Savings Accounts are owned by the individual (not by the employer). If the employee leaves the job, they take their savings with them.
- **Choice:** Employer cannot restrict how distributions from an HSA are used.

Other Advantages of HSAs

- **Roll Over:** HSA Funds can be rolled over from year to year: No “use it or lose it rules” like Flexible Spending Accounts (FSAs).
- **Money Can Grow:** Accounts can be managed and invested just like an IRA.

Other HSA Advantages

- Positive Health Incentives: HSA owners are rewarded for healthy lifestyles. [Already, companies are seeing employees quit smoking after switching to HSA policies.]
- Protection for Occurrence of Catastrophic or Chronic Illness: By limiting the total out-of-pocket expense for HSA owners, those who do have illnesses are protected.

Who Is Offering HSAs?

- Federal Government - Offers several HSA options for federal employees.
- States: South Carolina, Arkansas, and Florida are all offering HSA plans to their state employees. [In just the first year, 30% of South Carolina's state employees have switched to an HSA plan.]