

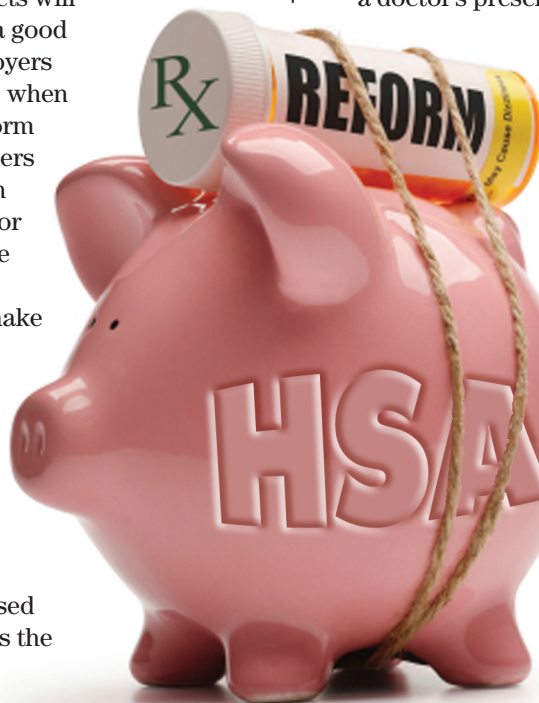
Consumer Driven Health Plans Fit with Reform

When health savings accounts (HSAs) were created in 2004, no one envisioned the sweeping changes to the U.S. healthcare system that would pass into law in March 2010. Throughout the healthcare debate, people speculated whether Congress would eliminate health savings accounts (HSAs), flexible spending accounts (FSAs), and health reimbursement arrangements (HRAs).

Not so. Despite some changes in contribution limits and restrictions in how funds can be used, most industry insiders believe that the popularity of these products will continue. It is a good thing for employers and employees when healthcare reform allows consumers to play a role in how they pay for their healthcare and encourages them to make good healthcare choices.

The new healthcare reform law does change how FSA, HRA, and HSA funds can be used since it changes the definition of a "qualified medical expense." In January 2011, expenses for over-the-counter medications will no longer be eligible for payment or reimbursement from any of

these healthcare accounts. The law still allows these accounts to provide reimbursements for over-the-counter medicines and insulin when the patient has a doctor's prescription for them.



Other Changes to HSAs

Only one other provision affects HSAs directly.

The tax penalty for HSA withdrawals that are not used for qualified medical expenses will be increased from 10% to 20% as of 2011.

The IRS will not change what individuals and families with high deductible health plans

can contribute to their HSAs in 2011. The contribution limits are the same as for 2010 (\$3,050 for individuals and \$6,150 for families).

Catch-up contributions for individuals 55 and older remain at \$1,000 annually.

These are all positive signs that HSAs will continue offering a tax-advantaged benefit to employees with their high deductible health plans. HSAs will continue to allow employers to reduce healthcare costs and allow employees to benefit from the tax advantages and portability of HSAs. The money is theirs to keep even if they change jobs.

However, changes that have been proposed to all health insurance policies may present a legal wild card. It is unclear how the changes will affect high deductible health plans when it comes to people's eligibility to contribute to HSAs. Some of the impact may not be known until regulations are written implementing the final provisions.

The healthcare reform law sets new requirements for all insurance policies including high deductible plans. For example, all insurance policies must provide first-dollar coverage for preventive care services without any cost sharing, such as co-payments or deductibles. Most high deductible plans already provide first-dollar coverage of preventive care services. But, all high deductible plans will be required to do so in 2014.

The U.S. Preventive Services Task Force (and the Secretary of HHS) will prescribe the scope of preventive care services. Currently, what constitutes "preventive care" is defined differently by the HHS and the IRS. The IRS may need to revise its guidance on preventive care. More political wrangling will likely ensue as the implementation of the healthcare reform law takes shape.

Other Changes to FSAs

As of 2013, the new law sets \$2,500 annual limits to healthcare contributions that employees can make to FSAs. Currently, employers set these limits. Despite this change, industry insiders expect FSAs to continue to grow because the advantages outweigh the new restrictions. And the healthcare reform law has introduced a new type of FSA called a "Simple Flex or Simple Cafeteria Plan," which does not require discrimination testing for small businesses with fewer than 100 employees.

Changes to Most Healthcare Plans and Accounts

The new law imposes a 40% excise tax on employer-sponsored coverage with a benefit value of more than \$10,200 for single coverage and \$27,500 for family coverage (indexed annually). The benefit value would include the value of the group health plan as well as contributions to employees' FSAs, HRAs, and HSAs. This tax would be imposed on insurance companies (including self-insured plans), plans sold in the group market, and plan administrators. However, the provision does not go into effect until 2018.

Another new requirement is for all insurance policies to provide a minimum actuarial value for the benefits covered (estimated to be at least 60%). However, it is still unclear how "actuarial value" will be defined and whether it will include employer and individual HSA contributions. If contributions were included in the calculation of a plan's actuarial value, it would be easier for more high deductible health plans to meet the minimum

actuarial value requirement.

As of 2014, all insurance plans will have to limit out-of-pocket expenses using the 2010 limits for HSAs, which are \$5,950 for individual coverage

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and \$11,900 for family coverage (adjusted annually for inflation).

In conclusion, the fundamental benefits of HSAs, HRAs and FSAs are still intact despite these proposed changes – the opportunity for consumers to save for medical expenses and fund their needs today and in the future. Accounts

that are used to finance healthcare needs meet all of the eight principles for reform outlined by President Obama in his mandate to Congress:

1. Protect families' financial health.
2. Make health coverage affordable.
3. Aim for universality.
4. Provide portability of coverage.
5. Guarantee choice.
6. Invest in prevention and wellness.
7. Improve patient safety and quality care.
8. Maintain long-term fiscal sustainability. □

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