

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 671
Judiciary

(Delegate Shetty, *et al.*)

Finance

Health Savings Accounts – Establishment and Application of Trust Law

This emergency bill generally exempts a health savings account (HSA) from the requirements of the Estates and Trusts Article and authorizes an HSA to be established as provided under the bill. An HSA is established on the first day that an individual becomes covered by a high-deductible health plan (HDHP). The HSA must be opened without a trustee or custodian within the time period prescribed by law, without extensions, for filing a federal income tax return for the year in which the HSA is established. An HSA is established regardless of whether there is a transfer of cash or other property to the account; moreover, unless required by the trustee or custodian, it is not necessary for any party to sign an HSA trust or custodial agreement regarding the HSA.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operations or finances.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Under federal law, an HSA means a trust created or organized in the United States as an HSA exclusively for the purpose of paying the qualified medical expenses of the account beneficiary but only if the written governing instrument creating the trust meets specified requirements.

HDHPs are health insurance plans with lower premiums and higher deductibles than traditional health insurance plans. HDHPs are often combined with an HSA or health reimbursement account. Federal law defines an HDHP as a health plan (1) that has an annual deductible of at least \$1,400 for individual coverage and \$2,700 for family coverage and (2) for which the sum of the annual deductible and the other annual out-of-pocket expenses required to be paid under the plan (other than for premiums) for covered benefits does not exceed \$6,900 for individual coverage and \$13,800 for family coverage. Federal law provides for annual inflationary adjustments to the annual deductible under an HDHP.

Background: HSAs administered in Maryland are currently governed by the Maryland Trust Act, which dictates that a trust is established when the trustee accepts and takes legal ownership of the property to be placed in the trust. Thus, an individual with an HSA governed by Maryland law may not claim a deduction for expenses incurred prior to the date that their HSA trustee deems the trust to be established. Under the bill, an individual with an HSA could use their HSA to pay for medical expenses incurred *prior* to the date they actually opened the account with the HSA trustee.

Missouri and Utah have enacted legislation to allow HSAs to be deemed established on the effective date of the individual's underlying HDHP coverage.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 507 (Senator West) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); ConnectYourCare; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2020
rh/ljm Third Reader - March 14, 2020
Revised - Amendment(s) - March 14, 2020

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510