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THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

HB671
Estates and Trusts - Health Savings Accounts - Establishment
Statement in SUPPORT

Chairman Clippinger, Vice Chair Atterbeary and esteemed members of the Judiciary Committee, thank you for the opportunity to testify in support of HB671, which will improve patient's access to Health Savings Accounts here in Maryland.

HB671 is a simple technical correction to Maryland law that will ensure that patients with Health Savings Accounts are able to access the benefits of these accounts on the first day that an individual becomes covered under an eligible healthcare plan.

Health Savings Accounts (HSAs) are designed to be used by consumers for qualified medical expenses, while allowing the individual to save for future medical expenses, including retiree health expenses, on a tax-free basis. These accounts were established in 2003 under the Medicare Modernization Act as a means to manage rising healthcare costs for employers and their employees. To be eligible for an HSA plan, an individual must be enrolled in a High Deductible Health Plan (HDHP). Contributions into, withdrawals from and interest earnings on HSA accounts are not taxed. Ensuring that an individual has access to their HSA funds at the start of a HDHP is critical as that is the time when patients incur the bulk of the costs for their plan year.

Section 223 of the Internal Revenue Code governs health savings accounts and are regulated by the IRS, however state trust law regulates the accounts that hold HSA funds. Federal law governs HSAs and mandates that expenses incurred prior to the establishment of an account may not be deducted from a health savings account. Under Maryland law, HSAs are governed by the Maryland Trust Act which notes that a trust is established when the trustee accepts and takes legal ownership of the property to be placed in the trust.[1] As a result, an individual with an HSA in Maryland may not claim a deduction for expenses incurred prior to the date that their HSA trustee deems the trust to be established.

[1] MD Est & Trusts Code § 14.5-401 (2015)

By way of example, if an individual begins a High Deductible Health Plan on June 1, but does not establish their HSA account until August 1, any medical expenses incurred in June and July would not be eligible to be paid using the HSA account. Assuming the individual has a standard $4,000 annual deductible for their plan, most of the medical expenses incurred under the plan would be incurred at the start of their plan year. HB671 will ensure that a patient's HSA funds are accessible on the very first day of their plan year.

Utah and Missouri have each amended their trust laws to clarify that HSAs begin at the start date of an individual's qualifying health plan.

I respectfully request a favorable report on HB671.