

Tax Relief and Health Care Act of 2006

The Tax Relief and Health Care Act of 2006 was passed by both Houses of Congress and sent to the President for signature into law on December 11, 2006. The Act contains two sections of significance to health plans.

HEALTH SAVINGS ACCOUNTS (HSAs)

Title III of the Act makes several changes to the rules governing HSAs that will be effective for 1/1/2007:

- **Roll Over of FSA and/or HRA Funds to an HSA.** Funds remaining in a Health FSA (Flexible Spending Account) or HRA (Health Reimbursement Arrangement) can be rolled into an HSA. The roll over option is limited to once per arrangement and must be completed as a direct deposit into the HSA prior to 1/1/2012. Roll over contributions from a Health FSA or HSA are not considered income to the individual and do not reduce the maximum annual contribution that can be made to an HSA. If the individual fails to maintain coverage under a HSA eligible High Deductible Health Plan for at least 12 months following the contribution, the roll over contribution amount will become taxable income to the individual and subject to a 10% penalty.
- **Roll Over of IRA Funds to an HSA.** Funds in an Individual Retirement Account (IRA) can be rolled into an HSA. This option can only be elected once per lifetime and is limited to an amount not to exceed the maximum annual HSA contribution for the year the transfer is made. Roll over contributions from an IRA are not considered income to the individual, but are counted against the maximum annual contribution to the HSA for the year. If the individual fails to maintain coverage under a HSA eligible High Deductible Health Plan for at least 12 months following the contribution, the roll over contribution amount will become taxable income to the individual and subject to a 10% penalty.
- **Maximum Contribution per Year No Longer Limited by HDHP Deductible Amount.** The Act repeals the limitation that annual contributions to an HSA not exceed the lesser of the annual HDHP deductible or the statutory maximum contribution. The maximum contribution will now be limited only by the statutory maximum limit which is \$2,850 for single coverage and \$5,650 for family coverage in 2007.
- **Contributions for Partial Year Coverage not Limited Pro-rated Amount.** Individuals that become eligible to participate in an HSA part way through a year can contribute up to the maximum annual contribution limit for that year (\$2,850 for single coverage and \$5,650 for family coverage in 2007). If the individual fails to maintain coverage under a HSA eligible High Deductible Health Plan for at least 12 months following the contribution, the contribution amount in excess of what would be allowed on a pro-rated basis will become taxable income to the individual and subject to a 10% penalty.
- **FSA Grace Period Coverage No Longer Disqualifies HSA Eligibility.** If the balance in the FSA is \$0 at the end of the year or the unused balance is turned into a roll over contribution to an HSA, the existence of the FSA grace period coverage will not disqualify a person from being eligible to participate in an HSA.
- **Exception to Comparable Employer Contribution Rules for Non-Highly Compensated Employees.** Employers that contribute to the HSA accounts of employees are allowed to contribute a larger amount to the accounts of non-highly compensated employees than they do to highly compensated employees. Contributions for non-highly compensated employees must be equal for all similarly situated non-highly compensated employees (i.e. same coverage type single/family and work status full-time/part-time). This exception only applies to discrimination testing under HSA Comparable Contribution rules. If contributions are made on a pre-tax basis through a Section 125 plan, the plan still must pass the Section 125 Discrimination Testing.
- **Annual Cost of Living Adjustments (COLA) Required to be Announced by June 1.** The Act requires the Department of Treasury to publish the annual cost of living adjustments for HSA contributions, minimum deductibles, and maximum out-of-pocket limits by June 1 of each year.

MENTAL HEALTH PARITY ACT

Section 115 of Title I of the Act extends the Mental Health Parity Act through the end of 2007.