



HSAs Have Arrived

The Medicare Prescription Drug and Modernization Act, which was recently signed into law, creates a new tax advantaged benefit - HSA (Health Savings Account). The purpose of this account is to reimburse certain medical care expenditures.

A Health Savings Account, as created by this legislation, is similar in some respects to both the Archer MSA (Medical Savings Account) and a traditional Health FSA (Flexible Spending Account).

Like the MSA, an HSA is limited to individuals who participate in a high-deductible health plan. The minimum deductible requirements are \$1,000 for individual coverage and \$2,000 for family coverage. A plan is not automatically disqualified as a high deductible health plan if it provides network benefits. Additionally, an individual participating in an HSA

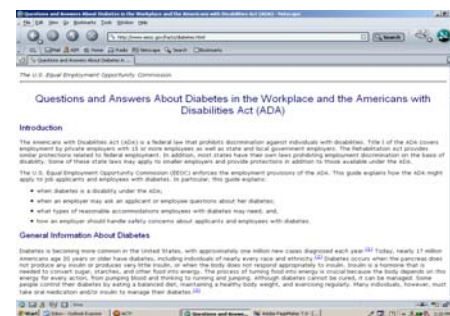
cannot be covered by another health plan that offers the same benefits as the primary plan, i.e. a high deductible plan at their employer and an HMO at their spouse's employer. For the purposes of HSA coordination, certain plans which provide only limited benefits are not considered health insurance coverage. Examples of such plans are Automotive PIP, Workers' Compensation and cancer policies. Unlike an MSA, both an employer and an employee may contribute to the HSA (MSA rules allow one or the other but not both).

Like an FSA, an HSA may be offered as a benefit under a cafeteria plan, but unlike an FSA, unused contributions may roll over from one plan year to the next. It is important to note that this carryover is a specific exception for HSAs only. This legislation does not remove the deferred compensation rules from all 125 plans. As an added

benefit, an employee may even retain and roll over unused contributions when moving from one employer to another. A participant in an HSA will be limited to certain

Diabetes and the ADA

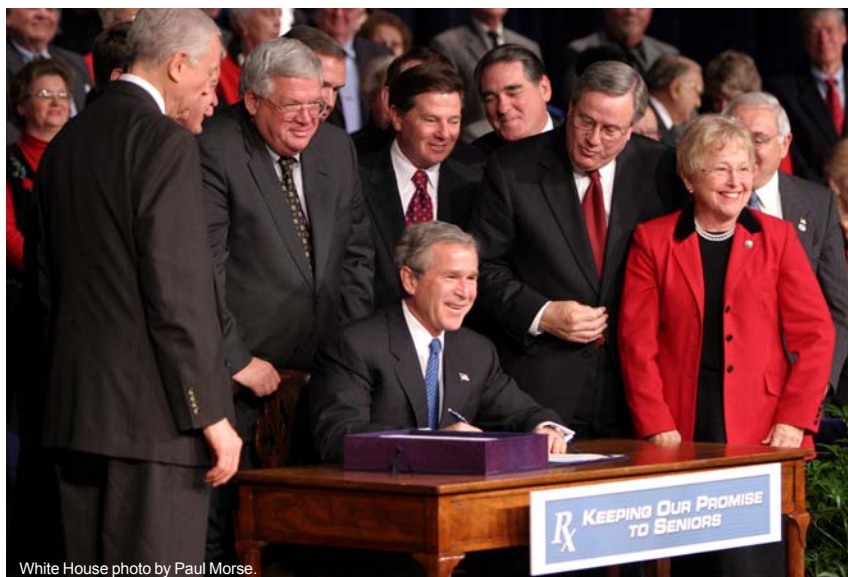
Recently, the U.S. Equal Employment Opportunity Commission (EEOC) released a fact sheet on how the Americans with Disabilities Act (ADA) applies to diabetes in the workplace. This publication, available at <http://www.eeoc.gov/facts/diabetes.html> is designed to assist employers, as well as applicants and employees with diabetes, in understanding their rights and responsibilities.



"While there is a considerable amount of general information available about the Americans with Disabilities Act, employers and employees alike often ask questions about how the ADA applies in employment situations involving certain illnesses and conditions," said Commission Chair Cari M. Dominguez. "This new fact sheet focusing on people with diabetes is intended to be the first in a series to address specific types of disabilities."

The fact sheet covers such topics as: when diabetes is considered to be a disability under the ADA; when an employer is permitted to ask an applicant or employee questions about his or her diabetes; types of reasonable accommodations employees with diabetes

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White House photo by Paul Morse.

ADA Continued...

may need on the job; and how an employer should handle safety concerns about people with diabetes in the workplace.

According to the American Diabetes Association, approximately 17 million people living in the United States have diabetes, and incidence of the disease is on the rise. Significant legal developments in seventh and ninth circuit federal courts pertaining to ADA coverage of people with diabetes also have generated interest in this topic. During the past five years, the EEOC has seen a 13 percent increase in the number of charges filed under the ADA alleging discrimination based on diabetes.

In addition to enforcing Title I of the ADA, which prohibits employment discrimination against people with disabilities in the private sector and state and local governments, and the Rehabilitation Act's prohibitions against disability discrimination in the federal government, EEOC enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin; the Age Discrimination in Employment Act, which prohibits discrimination against individuals 40 years of age or older; the Equal Pay Act; and sections of the Civil Rights Act of 1991.

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Medicare Continued...

maximum contributions. Generally speaking, a plan participant will not be permitted to make annual contributions in excess of the annual deductible under the high deductible health plan. An employer may also make excludable contributions to an employee's HSA as long as the contributions meet non-discrimination testing requirements.

Unlike an FSA, an employee may, under certain circumstances, utilize funds in an HSA account to pay premiums for other insurance coverage, such as COBRA premiums, qualified long-term care and, in some cases, individual policies while an employee is receiving unemployment compensation.

The legislation allows these plans to begin January 1, 2004. As with most new legislation, there are a number of unknown factors regarding actual implementation. Therefore, it may be advisable for employers to wait before instituting an HSA until the Department of Labor and/or Treasury Department issue additional regulatory guidance.

EEOC Website is Redesigned
www.eeoc.gov

The EEOC has taken the information that is most important to the greatest number of visitors (based on their usage statistics), organized it in new ways, and placed it more prominently on their site. Less frequently requested information has also been restructured and should be easier to find. In a few cases, documents have been moved to a new location on the site.

Some of their most popular documents are now available in several languages: Spanish, Arabic, Russian, Vietnamese, Korean, and Haitian-Creole. For people who are more comfortable with those languages than with English, learning about their rights under the laws that the EEOC enforces just became a lot easier. The EEOC plans to have more documents and languages available soon.

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