

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1303*

Short Title: Authorize Medical Savings Accounts.

(Public)

Sponsors: Senators Forrester; Perdue, Parnell, and Carpenter.

Referred to: Finance.

May 23, 1996

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE MEDICAL SAVINGS ACCOUNT PLANS THE
2 CONTRIBUTIONS TO WHICH ARE DEDUCTIBLE FROM STATE TAXES
3 UNDER CERTAIN CIRCUMSTANCES.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 50 of Chapter 58 of the General Statutes is amended by
7 adding the following new sections to read:

8 **"§ 58-50-158. Title and reference.**

9 This section and G.S. 58-50-159 through G.S. 58-50-164 are known and may be
10 referred to as the Medical Savings Account Act, referred to in those sections as 'this Act'.

11 **"§ 58-50-159. Purpose and intent.**

12 The purpose and intent of this Act is to provide incentives to North Carolina's citizens
13 to help reduce their health care costs by planning for future medical care expenses, by
14 foregoing unnecessary medical treatment, and by seeking the best value for their health
15 care dollars when treatment is necessary. To that end, this Act authorizes the
16 establishment of medical savings account plans, contributions to which are State income
17 tax deductible to the extent that funds disbursed from the account are used to pay eligible
18 medical expenses of the account holder.

19 **"§ 58-50-160. Definitions.**

20 As used in this Act, unless the context clearly requires otherwise, the term:

- 1 (1) 'Account administrator' means any of the following:
2 a. A nationally or state-chartered bank, savings and loan
3 association, savings, bank, or credit union;
4 b. A trust company authorized to act as a fiduciary;
5 c. An insurance company, health maintenance organization, or
6 hospital or medical service corporation authorized to do business
7 in this State;
8 d. A third-party administrator;
9 e. A certified public accountant; or
10 f. An employer, if the employer has a self-insured health plan under
11 ERISA.
- 12 (2) 'Account holder' means the individual or employee for whose benefit a
13 medical savings account is established.
- 14 (3) 'Commissioner' means the Commissioner of Insurance.
- 15 (4) 'Deductible' means the total covered medical expense the employee or
16 employee's dependents must pay prior to any payment by the HDC
17 coverage provided under the Plan.
- 18 (5) 'Eligible medical expense' means an expense paid by a taxpayer for
19 medical care as described in section 213(d) of the Internal Revenue
20 Code except that the term does not include medical expenses of the
21 account holder or the account holder's covered dependents that are
22 covered by the account holder's automobile insurance policy, workers'
23 compensation insurance policy, self-insured plan, or other health
24 insurance coverage, or that another third party is obligated to cover.
- 25 (6) 'Employee' means the individual for whose benefit, or for the benefit of
26 whose dependents, a medical savings account is established. The term
27 includes a self-employed individual.
- 28 (7) 'Employer' includes self-employed individuals.
- 29 (8) 'High deductible catastrophic health care coverage' or 'HDC coverage'
30 means a health care coverage policy, certificate, contract, or other type
31 of health care coverage that:
32 a. Requires a deductible of not less than one thousand five hundred
33 dollars (\$1,500) for coverages for a single individual and not less
34 than three thousand dollars (\$3,000) for coverages for a single
35 individual and one or more dependents, and
36 b. That provides for payments for covered health care benefits that
37 exceed the policy, certificate, or contract deductible, that is
38 purchased by an employer for the benefit of an employee, and
39 that meets the requirements of G.S. 58-50-161.
- 40 In no event shall the deductible for any coverage described in this
41 subdivision exceed five thousand dollars (\$5,000).
- 42 (9) 'Medical savings account' or 'MSA' or 'Account' means an account
43 established by an employer under a Medical Savings Account Plan to

1 pay the eligible medical expenses of the account holder and the account
2 holder's covered dependents.

- 3 (10) 'Medical Savings Account Plan' or 'Plan' means a health care coverage
4 plan that is comprised of HDC coverage and a medical savings account
5 established to receive and disburse funds contributed by the account
6 holder or the account holder's employer, or both, to pay for eligible
7 medical expenses of the account holder and the account holder's covered
8 dependents.

9 **"§ 58-50-161. Medical Savings Account Plan authorized; coverage requirements;**
10 **account contributions; enrollment requirements; distribution upon death**
11 **of account holder.**

12 (a) Authorization. – Effective January 1, 1998, an employer may offer to its
13 employees health care coverage in the form of a Medical Savings Account Plan. In order
14 to qualify for the tax treatment authorized under G.S. 105-130.5 and G.S. 105-134.6, the
15 Plan shall include both:

- 16 (1) High deductible catastrophic health care coverage that meets the
17 requirements of this Act, and
18 (2) A medical savings account established in accordance with this Act.

19 An employer that establishes a Medical Savings Account Plan shall, before making
20 any contribution to an MSA under the Plan, inform the employee in writing of the federal
21 and State tax status of contributions made by the employer and the employee to the MSA
22 under this Act. Employers shall also offer to assist employees in determining the most
23 appropriate health care coverage option among those offered by the employer, and how to
24 use a Medical Savings Account Plan if that option is chosen by the employee.

25 An employer who offers an MSA Plan shall provide for each account holder a funds
26 verification card that when presented by the employee to a health care provider will
27 enable the health care provider to ascertain the status of the employee's coverage under
28 the Plan.

29 (b) Coverage Requirements. – HDC coverage shall qualify as part of a Medical
30 Savings Account Plan if the coverage:

- 31 (1) Is a policy, certificate, contract, or other type of health care coverage
32 purchased by the employer for an employee. The coverage may include
33 the employee's eligible dependents; and
34 (2) Provides for the payment of covered medical expenses that exceed the
35 deductible, copayments, or coinsurance required under the policy,
36 certificate, contract, or other type of health care coverage.

37 Except as otherwise required by State or federal law, the extent of coverage of the
38 services required under this subsection, and any other services that may be covered under
39 the HDC coverage are within the discretion of the employer.

40 (c) Enrollment Requirements. – An employer who offers an MSA Plan may not
41 establish different enrollment period requirements for employees covered under the MSA
42 Plan than for employees covered under other health benefit plans offered by the
43 employer. An employee and covered dependents who change health benefit plans

1 offered by the same employer shall receive credit for any preexisting condition waiting
2 period, or portion thereof, satisfied under the prior plan, provided that fewer than 60 days
3 have elapsed between participation in the prior plan and enrollment in the new plan. If
4 the eligible dependents of an employee are covered under a basic or standard plan
5 covering the employee, then the employee's dependents must also be covered under an
6 MSA Plan covering the employee.

7 (d) Account Contributions. – If an employer makes contributions to a medical
8 savings account program on a periodic installment basis, the employer may advance to an
9 employee, interest free, an amount necessary to cover medical expenses incurred that
10 exceed the amount in the employee's medical care savings account when the expense is
11 incurred, if the employee agrees to repay the advance from future installments, or when
12 the employee ceases to be an employee of the employer.

13 (e) Distribution of Account Funds Upon Death of Account Holder. – Upon the
14 death of the account holder, all funds in the MSA shall be distributed to the decedent's
15 estate.

16 **"§ 58-50-162. Uses of funds in medical savings account.**

17 (a) Funds that accumulate in a medical savings account as a result of contributions
18 to the account or as a result of interest or dividends earned on funds in the account may
19 be used to pay for eligible medical expenses and long-term care services or long-term
20 care insurance premiums for the employee and covered dependents. Account funds may
21 also be used to pay for the continuation of health care coverage through payment of
22 premiums for the coverage during periods of unemployment or of transition from one
23 medical savings account plan to another. Funds that are unexpended from an MSA may
24 accumulate from year to year and shall remain exempt from taxation as long as the funds
25 remain in the MSA or are used to pay for eligible expenses.

26 (b) Funds held in an MSA are the property of the account holder and may be
27 withdrawn for any reason. Account funds withdrawn for any purpose other than those
28 authorized under subsection (a) of this section shall be subject to taxation in accordance
29 with G.S. 105-134.6 and a penalty. The penalty is ten percent (10%) of the amount
30 withdrawn.

31 (c) If an account holder's employment is terminated by the employee or employer,
32 the account holder may do the following without subjecting the funds to taxation or
33 penalty:

34 (1) Use the funds in the account holder's MSA to:

35 a. Continue to pay premiums of the Plan established by the former
36 employer for the account holder,

37 b. Purchase a health benefit plan for the account holder's
38 dependents, or

39 c. Pay for any other eligible expense; or

40 (2) Deposit funds from the MSA established by the former employer into a
41 new MSA established by the account holder's new employer.

42 "58-50-163. Account administration.

1 (a) MSAs shall be administered by an account administrator selected by the
2 employer. The employer may change the account administrator at any time. Account
3 funds shall be deposited in an insured account in a financial institution, in trust, in the
4 account administrator's name as trustee for the benefit of the account holder. The account
5 administrator may establish an individual trust fund for each account holder or one or
6 more common trust funds for some or all of the medical savings accounts administrated
7 by the administrator. Funds in an MSA shall not be commingled with any other property
8 except in a common trust fund. The account administrator shall keep accounting records
9 for each account holder showing the amounts deposited and interest, dividends, increases,
10 and accretions earned. All interest, dividends, increases, or accretions earned by the
11 funds shall remain with the principal.

12 (b) The account administrator may disburse funds held in an MSA only for the
13 following purposes:

14 (1) To pay the eligible medical expenses, long-term care services, or long-
15 term care insurance premiums of the account holder or the account
16 holder's covered dependents;

17 (2) To pay for the continuation of health care coverage through payment of
18 premiums for the coverage during periods of unemployment or of
19 transition from one medical savings account plan to another;

20 (3) To purchase a health coverage policy, certificate, contract, or other
21 health care coverage if the account holder does not otherwise have
22 health insurance coverage;

23 (4) To reimburse the account holder for eligible medical expenses of the
24 account holder or covered dependents that were paid by the account
25 holder; and

26 (5) For any purpose in accordance with subsection (c) of this section.

27 (c) The account holder may direct the account administrator to withdraw and pay
28 to the account holder funds in the MSA for any purpose other than those authorized under
29 G.S. 58-50-162(a), provided that withdrawals for noneligible purposes may not be made
30 more frequently than once per calendar quarter. Funds withdrawn pursuant to this
31 subsection are subject to tax as provided under G.S.105-134.6 and penalty as provided
32 under G.S. 58-50-162. Penalties shall be collected by the account administrator and
33 remitted within 30 days to the Commissioner for deposit to the General Fund.

34 **"§ 58-50-164. Commissioner to adopt rules.**

35 The Commissioner of Insurance may adopt rules to implement this act."

36 Sec. 2. Effective January 1, 1998, G.S. 58-67-35 is amended by adding the
37 following new subsection to read:

38 "(c) Notwithstanding G.S. 58-67-5, an HMO may develop a plan, subject to the
39 approval of the Commissioner, that will permit participation by the HMO in a Medical
40 Savings Account Plan as defined under G.S. 58-50-160."

41 Sec. 3. G.S. 105-134.6(d) is amended by adding a new subdivision to read:

42 "(4) Medical savings accounts. – As used in this subdivision, the term
43 'medical savings account' has the meaning provided in G.S. 58-50-160.

1 No deduction is allowed under this subdivision with respect to a
2 medical savings account that is not in compliance with the provisions of
3 the Medical Savings Account Act, G.S. 58-50-158 through G.S. 58-50-
4 164.

5 To the extent it is included in taxable income, a taxpayer may deduct
6 (i) a contribution to the taxpayer's or the taxpayer's employee's medical
7 savings account during the taxable year and (ii) interest and dividends
8 earned on the taxpayer's medical savings account during the taxable
9 year. If a taxpayer withdraws funds from the taxpayer's medical savings
10 account during the taxable year, other than for a purpose authorized by
11 G.S. 58-50-162(a), the taxpayer shall add the amount withdrawn to
12 taxable income to the extent it is not included in taxable income."

13 Sec. 4. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

14 "(17) To the extent they are included in federal taxable income, the
15 taxpayer's contributions to the taxpayers' employees' medical savings
16 accounts made during the taxable year in accordance with the
17 Medical Savings Account Act, G.S. 58-50-158 through G.S. 58-50-
18 164."

19 Sec. 5. Effective January 1, 1998, G.S. 143-622(21) reads as rewritten:

20 "(21) 'Qualified health care plans' means the basic or standard health care
21 plans offered by an Accountable Health Carrier to member small
22 employers and as authorized by the Small Employer Carrier Committee
23 pursuant to ~~G.S. 58-50-120~~ G.S. 58-50-120, a catastrophic health care
24 plan, and one additional plan. This additional plan shall be strictly
25 limited to medical benefits and shall not be instituted with any elements
26 of dental benefits. For the purposes of this section, "medical" does not
27 include any elements of life, property and casualty, or workers'
28 compensation benefits."

29 Sec. 6. Effective January 1, 1998, G.S. 143-626(2) reads as rewritten:

30 "(2) Accept applications by carriers to qualify as Accountable Health
31 Carriers, determine the eligibility of carriers to become Accountable
32 Health Carriers according to criteria described in G.S. 143-629,
33 designate carriers as Accountable Health Carriers, and approve one
34 additional qualified health care plan to be offered to small employers
35 beyond the ~~basic and standard health care plans~~ basic, standard, and
36 catastrophic health care plans."

37 Sec. 7. Sections 3 and 4 of this act are effective for taxable years beginning on
38 or after January 1, 1998. The remainder of this act is effective upon ratification.