



HDHP's and HSA's: The Basic Rules for Employers and Employees

A HSA Qualified High Deductible Plan (HDHP) Has The Following Characteristics:

- a minimum deductible* of \$1,000 for self-only coverage (2005);
- a minimum deductible* of \$2,000 for family coverage (2005);
- a maximum out-of-pocket limit* (including deductibles and co-pays) of \$5,100 for self-only coverage, and \$10,200 for family coverage (2005);
- preventive care can have first dollar coverage;
- prescription drugs taken to prevent the onset of a condition for which a person has developed risk factors for can be considered preventive care, like cholesterol-lowering medication;
- preventive care examples include: periodic health evaluations like annual physicals, screening services like mammograms, routine prenatal and well-child care, child and adult immunizations, tobacco cessation programs, and obesity weight loss programs;
- a general rule of thumb for what is or is not preventive care is the care does not include any service or benefit which treats an existing illness or condition;
- co-pays are allowed to apply to preventive care;
- higher out-of-pocket (co-pays and co-insurance) is allowed for out-of-network care;
- until January 1, 2006, you can have an HSA qualified plan that pays for prescription drugs below the deductible, as long as the prescription drug benefit is a separate plan or rider; and,
- after January 1, 2006, prescription drug coverage before the deductible is met is not allowed.

Basic Rules to Qualify for an HSA:

You cannot be covered by any other “health insurance plan” that reimburses you for health expenses you incur, unless it is another HSA qualified high deductible health plan. For example, if a family has all members covered under two HSA qualified high deductible health plans, or some family members on one plan and the other family members under another HSA qualified high deductible health plan, the maximum annual contribution to the account remains in force. Just because you have coverage under two HSA qualified high deductible health plans, you cannot double your HSA contribution. It remains at a maximum of \$5250* for a family (2005)

1) For those covered by two HSA qualified high deductible health plans, it is a violation of the coordination of benefit rules to be paid by each plan for the same expense.

2) Flexible Spending Arrangements (FSA’s) and Health Reimbursement Arrangements (HRA’s) may make you ineligible for an HSA unless they are: (1) “limited purpose” (limited to dental, vision or preventive care) or (2) “post-deductible” (pay for medical expenses after the plan deductible is met). HRA’s that set aside money only for retiree health expenses are also acceptable.

3) If you are enrolled in Medicare or Medicaid, **you cannot have** an HSA.

4) Tricare does not currently offer an HSA qualified high deductible health plan. Therefore, if you are on Tricare, **you cannot have** an HSA. Once Tricare offers an HSA qualified high deductible health plan, and you select it, you can have an HSA.

5) If you have received any Veterans Administration health benefits in the last three months, **you cannot have** an HSA.

6) If you are Medicare eligible, and you are not enrolled in Medicare, you can open or contribute to an HSA, if you have an HSA qualified health insurance plan.

7) You cannot establish separate HSA accounts for your minor dependent children.

8) You do not have to have earned income from employment to have an HSA.

9) There are no income limits to have an HSA.

10) State mandates for first dollar coverage that adversely impact HSA qualified high deductible health plan design are allowed until January 1, 2006, in order to give certain states time to make changes to their own state laws before that date.

*NOTE: These amounts are indexed annually for inflation.

HSA Deposit Rules:

1. You must have an HSA qualified high deductible health plan to open or contribute to an HSA.
2. Your annual HSA deposit can never exceed your insurance plan's deductible, unless you are 55 or older and are making "catch up" contributions.
3. The higher your deductible, the more you can deposit into your HSA. However, the maximum amount you can contribute per year is \$5,250* for family coverage (2005) and \$2,650* for self-only (2005), excluding catch up contributions for those 55 years and older.
4. Individuals 55 and older can make additional **catch-up contributions** until they enroll in Medicare.
5. Catch up amounts must be pro-rated monthly based on the number of months an individual is 55 (assuming they are also covered by a high deductible plan for all of these months). For example, if you turn 55 July 1st then you will be 55 for six months, allowing you to contribute half of the catch-up amount.
6. If you have a family plan with a per-person deductible below the overall family deductible, you can deposit into the account the maximum allowed, if you have enough people in the family so that the sum of their per-person deductibles exceeds the maximum allowable family deposit. However, you cannot deposit more into the HSA than the overall or total family deductible. For example, a family of two with a \$2,000 per-person deductible, and an overall deductible, or total family deductible of \$5,000, can only deposit \$4,000 into the HSA. If a family of three has a \$2,000 per-person deductible, and a \$5,000 overall or total family deductible, then the maximum deposit to the HSA is \$5,000.
7. **You can "front load" or fully fund** your HSA account on day one of your health savings account being in effect, provided you do not exceed the annual maximum amount (or the pro-rated amount if your account is open on a date other than January 1st.) You can make the deposit anytime after your HSA is open. If you lose your high deductible health plan later in the year, you will have to withdraw some of the contribution from the account.
8. If your high deductible coverage is effective after January 1st, then the total contributions to the account must be **pro-rated based on the number of full months** your qualified high deductible insurance is in effect. Count only those months for which your high deductible coverage is in effect **on the first day of the month**. *For example, if your high deductible coverage starts on January 3, the maximum number of months for which you can make a contribution to your HSA is 11.*
9. You can deposit funds into your HSA in a lump sum or in any amounts or frequency you wish. However, your account trustee/custodian can impose minimum deposit and balance requirements.

10. Deposits to an HSA must be made in cash. Funds in an IRA, 401k or other retirement/pension account cannot be directly deposited or “rolled over” into an HSA. But you can take a distribution from one of these accounts, pay applicable taxes (and penalties if withdrawn early) and use the remaining funds to make deposits into your HSA.

11. Rollovers from an Archer Medical Savings Account into a Health Savings Account are allowed if completed within 60 days of withdrawing the funds from your Archer Medical Savings Account.

12. Unlimited HSA trustee to HSA trustee transfers are allowed, meaning, you can move your HSA account any number of times you want in a given year.

13. If you have contributed an amount into your HSA which exceeds your maximum allowable deposit, you may withdraw the excess amount and any earnings on the excess amount prior to April 15th of the following year. However, you must pay income tax on your excess contributions and income tax on any earnings of the excess contribution. There is no 10% penalty on excess contributions.

14. If you do not withdraw the excess contribution to your HSA prior to April 15th of the following year, **you must pay a 6% excise tax** on the excess contribution, and on any earnings of the excess contribution. If in the next year you decreased your maximum contribution by the amount of your excess contribution made the year before, you do not have to pay the 6% excise tax again. If, however, you leave the excess contribution in, and do not decrease your maximum contribution by the amount of your excess contribution made the year before, you will have to pay the 6% excise tax each year the excess contributions and earnings are in the HSA.

*NOTE: These amounts are indexed annually for inflation.

HSA Spending Rules

1. If an expenditure from your Health Savings Account is used for purposes other than a qualified health care expense as defined in IRS Publication 502, then the amount withdrawn is subject to both income tax and a 10% penalty, unless the person who makes such a withdrawal from their HSA is over the age of 65. If 65 years old or older, the amount withdrawn for non-medical purposes is treated as retirement income, and is subject to normal income tax, but is not subject to the 10% penalty.

2. Everyone with a Health Savings Account **must keep all their receipts** showing their expenditures from their account. There are **two key reasons** you must do this: (1) if you exceed your deductible, you may need the receipts to send to your insurer, and (2) in case you are audited by the IRS, you need to explain your HSA expenditures

3. It is the responsibility of the account owner to notify the custodian or trustee if there has been excess deposits made, and it is the responsibility of the account owner to request the withdrawal of those funds, and the payment of income tax on those funds

and the a pro-rata share of the earnings, and the payment of the 10% penalty tax.

4. It is the final responsibility of the account holder, not the trustee or the custodian, to determine if deposits have exceeded the maximum allowable amount

5. Withdrawals that were made for what the HSA owner thought were qualified medical expenditures, but turned out not to be qualified medical expenditures, can be returned to the Health Savings Account if there **is clear and convincing evidence** that the expenditure was a mistake of fact. Such repayment to the Health Savings Account must be made on or before April 15th of the year following when the individual knew, or should have known, the expenditure was a mistake.

6. Your spouse will inherit your Health Savings Account upon your death, unless your will provides otherwise.

7. Should the Health Savings Account holder have no spouse, the funds in the account shall no longer be treated as a Health Savings Account but part of the individual's estate and will be subject to estate taxes

8. HSA funds **cannot** be used to pay for health insurance premiums unless the individual is receiving federal or state unemployment benefits.

9. HSA funds **can** also be used to pay premiums for COBRA continuation health insurance coverage from a former employer.

10. HSA funds **can** be used to pay premiums for qualified long-term care insurance coverage, subject to the age limits in the Internal Revenue Code

11. ***HSA plans are not currently approved for the California state income tax deduction.***