A Complete Guide to HSAs

A health savings account, or HSA, is a tax favored IRA-type trust or custodial account that is set up with a qualified trustee (a bank, credit union, or insurance company) and is used to pay for qualified medical expenses. First available in 2004, they have become an exceedingly popular choice as employers design their benefit programs. HSAs are coupled with high deductible health plans (HDHPs) and are the cornerstone of consumer driven healthcare.

HSAs have "triple tax benefits" for participants:

1. Participants can make pre-tax contributions up to the statutory limits
2. Interest and investments earnings on HSA accounts are tax free
3. HSA funds can be used to pay for qualified healthcare medical expenses, tax free for participants and their tax dependents
4. HSAs are highly regulated by the Internal Revenue Service (IRS) due to their numerous tax advantages.

Eligibility

Only eligible individuals can establish an HSA. There are four requirements that an individual must meet:

1. You must be covered under an HDHP on the first day of the month
2. You cannot have disqualifying health coverage
3. You cannot be enrolled in Medicare
4. You cannot be claimed as a dependent on someone else's tax return for the year

Requirement One: High Deductible Health Plan Coverage

An individual must be covered by an HDHP on the first day of the month to be eligible for an HSA.

Definition: An HDHP is a health plan that meets the statutory requirements for annual deductibles and out-of-pocket expenses and provides "significant benefits." The significant benefit requirement prevents the plan from only covering a fixed indemnity benefit, carving out hospitalizations, or only covering specified diseases.

		2021	2022
Minimum Annual HDHP Deductible 2022	**Self-Only**	$1,400	$1,400
	Family	$2,800	$2,800
Maximum Out-of-Pocket 2022*	**Self-Only**	$7,000	$7,050
	Family	$14,000	$14,100

Additionally, the HDHP needs to meet separate out-of-pocket limits set by the ACA.

**This limit doesn't apply to deductibles and expenses for out-of-network services if the plan uses a network of providers. Instead, only deductibles and out-of-pocket expenses for services within the network should be used to figure whether the limit applies.*

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Requirement Two: You Cannot Have Disqualifying Coverage

In addition to being covered by an HDHP, a participant can't be covered by disqualifying coverage.

Allowed Coverage	Disqualifying Coverage
Dental & Vision Coverage	Major medical coverage in addition to the HDHP
Preventive Care	Medicaid or Medicare
Accident coverage, accidental death and disability (AD&D), disability coverage	TRICARE
Fixed indemnity health insurance i.e. insurance that pays a pre-determined amount on a per incident basis regardless of the total charges incurred.	Health Flexible Spending Account (FSA) including a spouse's FSA, unless it is limited purpose or post-deductible
Illness or disease specific coverage (e.g. cancer insurance), so long as the HDHP provides the principal health coverage	Health Reimbursement Arrangement (HRA) unless it is limited purpose, post deductible or retirement HRA.
Wellness programs, so long as they don't provide "significant benefits" in the nature of medical care/treatment	Telemedicine (unless participants pay for the electronic visits, and it does not provide "significant benefits") (Note: The CARES Act provided temporary relief for HDHPs to provide Telemedicine with no cost sharing without invalidating HSA eligibility.)
Workers compensation	On-site clinics that provide more than nominal benefits such as flu-shots, bandages, and OTC pain relievers
Employee Assistance Programs (EAP) so long as it does not provide "significant benefits" in the nature of medical care or treatment	Indian Health Service benefits received within 3 months
Disease management program, so long as it doesn't provide significant benefits in the nature of medical care or treatment. Providing evidence-based information, support, monitoring, care coordination, and resources would be permissible.	Free or reduced cost "significant medical benefits" such as a hospital that allows employees to receive care at no cost.
Prescription drug discount cards	Carve Out Coverage – an HDHP cannot carve out certain benefits, such as prescription drugs, and then cover the carved out benefit on a separate plan that covers the benefit below the statutory minimum.
Business travel coverage	VA Medical Benefits (unless it is for hospital care or services for a service-connected disability)

Employees should receive education on disqualifying coverage prior to being permitted to enroll in an employer's HSA. Spousal coverage can create disqualifying coverage inadvertently. The most common mistake is when one spouse enrolls in an HDHP plan and makes HSA contribution and the other spouse enrolls in a separate non-HDHP plan with an FSA (typically when both spouses have access to their own employer sponsored coverage). The spouse who enrolls in the FSA, even if they only have single coverage, has now prohibited the other spouse from having an HSA.

Examples:

- Emily and Noah are married, Emily is a full-time employee at The Soup Shop and Noah is a full time employee at The Sandwich Shop. Emily and Noah each enroll in single coverage with their respective employer. Emily enrolls in a PPO plan and elects the FSA. Noah enrolls in an HDHP and wishes to enroll in the accompanying HSA, but is ineligible. This is because Emily has an FSA (which is disqualifying coverage) and she is permitted to spend her FSA dollars on her medical expenses, and those of her spouse and dependents. Even if Emily does not spend her FSA dollars on Noah, Noah is still ineligible for The Sandwich Shop's HSA.
- Emily and Noah are married, Emily is a full-time employee at The Soup Shop and Noah is a full-time employee at The Sandwich Shop. Emily enrolls in The Soup Shop's PPO plan with family coverage. Noah enrolls in The Sandwich Shop's benefits, with single HDHP coverage. Because Noah is covered by Emily's PPO plan, he is ineligible to participate in the HDHP's accompanying HSA.

FSAs create unique challenges for individuals who wish to establish an HSA. At a basic level, an individual cannot have FSA coverage and HSA coverage at the same time. Issues arise trying to determine when a person is no longer considered to have FSA coverage.

FSA Design	Impact on HSA Eligibility
Grace Period and • Participant has a health FSA balance on the last day of the plan year[1]	Participant is not eligible to contribute to an HSA, or receive contributions from employer until the first of the month after the end of the grace period (e.g. April 1st if calendar year plan with 2 ½ month grace period)
Grace Period and • Participant does not have a health FSA balance on the last day of the plan year. (e.g. full amount elected reimbursed and the bank account shows $0.00)	Participant is eligible to participate in an HSA on the first day of the next plan year. HSA eligibility in not impacted.
Carryover / Rollover and • Participant has a health FSA balance on the last day of the plan year[1, 2]	Participant is not eligible to contribute to an HSA, or receive contributions from employer for the entire subsequent plan year, even after the carryover is exhausted and even if the employee does not make or receive new health FSA contributions for that plan year
Carryover / Rollover and • Participant does not have a health FSA balance on the last day of the plan year. (e.g. full amount elected reimbursed and the bank account shows $0.00)	Participant is eligible to participate in an HSA on the first day of the next plan year. HSA eligibility in not impacted.

[1]unless the plan is designed to permit participants to opt-out or waive the grace period or carryover prior to the beginning of the following year.

[2]unless the plan is designed so a minimum threshold amount is required to create a new annual election and their balance is less than the minimum or the employer also offers a limited purpose FSA and their plan is designed so remaining funds automatically carry over to the limited purpose FSA for employees who elect an HDHP.

Employers who wish to offer an FSA and an HDHP with an HSA should consider designing their FSA plans to allow participants to decline or waive their grace period or carryover at the end of the plan year. Both of these strategies would preserve HSA eligibility for an employee looking to move to the HDHP, but they must be implemented at the start of the plan year. It is not permissible mid-year for an employer to amend their FSA plan design to allow these options. Again, spouses should work together to ensure one of them does not enroll in an FSA and "spoil" the other spouse's HSA eligibility.

Preventive Care

Generally, being covered by an HDHP requires that a covered individual or family meet a specified minimum deductible before the HDHP begins providing benefits. However, an exception exists to this rule with respect to "preventive care."

This exception provides that an HDHP may provide preventive care benefits without regard to whether the minimum deductible has been met (i.e., "first dollar" coverage), or according to a different, lower minimum. Thus, a HDHP providing certain preventive care benefits before the minimum annual HDHP deductible has been met will still be considered an HDHP for purposes of establishing an HSA.

What is Preventive Care?

Correct identification of preventive care benefits is important to determine eligibility for HSA contributions. Under current law and guidance from the Treasury Department and Internal Revenue Service, an HDHP can provide the following preventive care benefits:

- Preventive services as defined in Section 1861 of the Social Security Act
- Preventive care under Notice 2004-23
- Preventive care under Q&A 26-27 to Notice 2004-50
- Preventive health care services required by Section 2713 of the Public Health Service Act
- Specified services and items for individuals with specified chronic conditions listed in the appendix to Notice 2019-45 (below).

Preventive Care for Specified Conditions	For Individuals Diagnosed with
Angiotensin Converting Enzyme (ACE) inhibitors	Congestive heart failure, diabetes, and/or coronary artery disease
Anti-resorptive therapy	Osteoporosis and/or osteopenia
Beta-blockers	Congestive heart failure and/or coronary artery disease
Blood pressure monitor	Hypertension
Inhaled corticosteroids	Asthma
Insulin and other glucose lowering agents	Diabetes
Retinopathy screening	Diabetes
Peak flow meter	Asthma
Glucometer	Diabetes
Hemoglobin A1c testing	Diabetes
International Normalized Ratio (INR) testing	Liver disease and/or bleeding disorders
Low-density Lipoprotein (LDL) testing	Heart disease
Selective Serotonin Reuptake Inhibitors (SSRIs)	Depression
Statins	Heart disease and/or diabetes

The notice, published July 17, 2019, specifies that the services and items listed in the appendix will be treated as preventive care only when they are prescribed (1) to treat an individual diagnosed with the corresponding chronic condition in the appendix and (2) for the purpose of preventing exacerbation of the condition or preventing the development of a secondary condition. If an individual is diagnosed with two or more chronic conditions, all the items and services listed that correspond with the conditions are preventive care.

Requirement Three: You Cannot Be Enrolled In Medicare

Disqualifying Medicare coverage often creates issues for employees who work past their 65th birthday. Being entitled (i.e. eligible and enrolled) to Medicare makes an individual ineligible for an HSA. Medicare entitlement is no longer automatic for everyone when they turn 65, rather most will need to sign up to get Medicare Part A and Part B. However, Medicare is automatic for individuals who:

- Are getting benefits from Social Security or the Railroad Retirement Board (RRB) at least 4 months before they turn 65
- Are under age 65 and have disability benefits from Social Security or RRB for 24 months
- Have ALS (also called Lou Gehrig's Disease)

In order to preserve HSA eligibility, individuals who are working and over age 65 must:

- Waive or not apply for Medicare Part A
- Not apply for Medicare Part B
- Waive or delay Social Security Benefits

If an employee delays their enrollment in Medicare and continues to work beyond age 65, once the individual's employment sponsored coverage ends, they have an eight-month special enrollment period to sign up for Medicare Part A. The first month of Medicare entitlement may be retroactive to the month they turned 65, or up to 6 months prior to enrollment, whichever is less. Therefore, an individual may need to stop HSA contributions for up to 6 months before they apply for Medicare Part A benefits to ensure they do not over contribute to their HSA.

Requirement Four: You Cannot Be Claimed as a Dependent on Someone Else's Taxes

Individuals who can be claimed as a dependent on someone else's tax return are not HSA eligible. The dependent child of an employee enrolled in family HDHP coverage cannot establish an HSA, even if they have no other disqualifying coverage.

Employees should keep in mind that HSA funds can only pay for the expenses of the employee, their spouse, and tax dependents as defined by IRS Code Section 223(d)(2)(A). This means that an older child who has not yet turned 26 and is no longer claimed as a dependent on their parent's taxes could not use the HSA to cover their qualified medical expenses, even if they are a covered dependent enrolled in the family HDHP plan. Conversely, that child could open their own HSA (and fund it to the full family contribution limit) if they did not have any other disqualifying coverage, because they were no longer a tax dependent of the employee parent.

HSA Contributions

Contribution limits to HSAs are based on:

- The tier of coverage enrolled in
- The date you become eligible
- The date you cease to be eligible

An individual's eligibility is determined monthly, on the first day of the month. If an individual enrolls in an HDHP on May 1, but enrolls in disqualifying coverage on November 15, they can only contribute up to the full contribution limit for the months of May, June, July, August, September, October, and November – or 7/12 of the annual limit. If they did not enroll in the plan until May 2, they could only contribute 6/12th. Similarly, if they enrolled on May 1 but enrolled in the disqualifying coverage on November 1, they would be limited to 6/12th of the annual limit.

	2021	2022
Annual HSA Contribution Limit for Self-Only Coverage	$3,600	$3,650
Annual HSA Contribution Limit for Family Coverage	$7,200	$7,300
HSA Catch-Up Contributions (Age 55 and older)	$1,000	$1,000

HSAs have a unique "last-month" rule that states if an individual is eligible for an HSA on December 1 (or first day of the last month of their tax year) they will be considered eligible for the entire year. This allows an individual who enrolls mid-year to contribute to the full annual contribution amount.

Individuals who move from family coverage to single coverage during the year can use the following formula to determine their contribution limit:

X = the number of months the individual was eligible under family coverage

Y = the number of months the individual was eligible under single coverage

((X/12 x $Annual Family Limit) + (Y/12 x $Annual Single Limit)

Individuals may roll over or transfer existing HSA accounts and Archer MSAs into a new HSA, and may transfer qualified HSA funding distributions from IRAs.

Married Couples

An HSA is an individual account. Married couples may not share an HSA however, they may share the family contribution limit. The IRS has a special rule for married couples, if either spouse has family coverage, if both spouses are eligible individuals, they can divide the maximum family contribution limit ($7,300 for 2022) between both spouses. Likewise, a married couple, both enrolled in HDHPs, one with family coverage and one with single, can contribute up to the full family amount between the two of them. They can divide their contributions between themselves as they see fit. The same rules apply if they are both enrolled in family coverage.

If they are both eligible for the catch-up contribution because they are both over age 55, they each may contribute to their own HSA the additional $1,000.

	Married Employee: no health coverage	**Married Employee: self-only non-HDHP coverage**	**Married Employee: self-only HDHP coverage**	**Married Employee: non-HDHP family coverage**	**Married Employee: family HDHP coverage**
Spouse has **no health coverage**	Neither can contribute to an HSA	Neither can contribute to an HSA	Employee is eligible to contribute **Maximum:** $3,600 (2021) $3,650 (2022) Spouse is not eligible to contribute	Neither can contribute to an HSA	Employee is eligible to contribute **Maximum:** $7,200 (2021) $7,300 (2022) Spouse is not eligible to contribute
Spouse has **self-only non-HDHP coverage**	Neither can contribute to an HSA	Neither can contribute to an HSA	Employee is eligible to contribute **Maximum:** $3,600 (2021) $3,650 (2022) Spouse is not eligible to contribute	Neither can contribute to an HSA	Employee is eligible to contribute **Maximum:** $7,200 (2021) $7,300 (2022) Spouse is not eligible to contribute
Spouse has **self-only HDHP coverage**	Spouse is eligible to contribute **Maximum:** $3,600 (2021) $3,650 (2022) Employee is not eligible to contribute	Spouse is eligible to contribute **Maximum:** $3,600 (2021) $3,650 (2022) Employee is not eligible to contribute	Both employee and spouse are eligible to contribute **Maximum:** $3,600 (2021) $3,650 (2022)	Neither can contribute EXCEPT spouse may contribute if not covered by employee's non-HDHP family coverage **Maximum:** $3,600 (2021) $3,650 (2022)	Both can contribute (treated as having only family coverage) **Maximum:** $7,200 (2021) $7,300 (2022)
Spouse has **non-HDHP family coverage**	Neither can contribute to an HSA	Neither can contribute to an HSA	Neither can contribute EXCEPT employee may contribute if not covered by spouse's non-HDHP family coverage **Maximum:** $3,600 (2021) $3,650 (2022)	Neither can contribute to an HSA	Neither can contribute EXCEPT employee may contribute if not covered by spouse's non-HDHP family coverage **Maximum:** $7,200 (2021) $7,300 (2022)
Spouse has **family HDHP coverage**	Spouse is eligible to contribute **Maximum:** $7,200 (2021) $7,300 (2022) Employee is not eligible to contribute	Spouse is eligible to contribute **Maximum:** $7,200 (2021) $7,300 (2022) Employee is not eligible to contribute	Both can contribute (treated as having only family coverage) **Maximum (total):** $7,200 (2021) $7,300 (2022)	Neither can contribute EXCEPT spouse may contribute if not covered by employee's non-HDHP family coverage **Maximum:** $7,200 (2021) $7,300 (2022)	Both employee and spouse are eligible to contribute **Maximum (total):** $7,200 (2021) $7,300 (2022)

Employer Contributions

Nondiscrimination

Employers may contribute to an employee's HSA, and their contributions count towards the total contribution limit for the year. Employer's contributions are subject to either comparable contribution rules, or the non-discrimination rules under Internal Revenue Code Section 125.

If the employer includes the HSA (i.e. allows employees to make contributions to an HSA pre-tax) in their Section 125/ Cafeteria plan, the 125 rules apply. These rules prohibit employers from favoring highly compensated or key employees.

If the HSA is not part of a Section 125/cafeteria plan, comparable contribution rules apply. This rule requires employers to make comparable (equal) contributions to all comparable participating employees' HSAs.

Comparable contributions are either the same amount, or the same percentage of the annual deductible limit under the HDHP covering the employees.

Comparable employees are those that are covered by their HDHP and eligible for an HSA, have the same category of coverage (self or family), and have the same category of employment (part-time, full-time, union or non-union, current or former employee).

In general, HSA contributions are nonforfeitable. It does not matter who made the contributions. Employers cannot subject contributions to a vesting schedule, and employers cannot request or require employees to return contributions if they terminate during the year. Only the beneficiary of the account can determine how and where to spend their funds.

Prohibited Transactions

You cannot use an HSA to loan money between the individual and the HSA. The practical impact of this is if an individual overdraws their HSA account they will be subjected to an additional 20 percent excise tax and they will lose HSA eligibility for the entire year. The HSA will be closed by the bank under federal law, and the individual cannot reopen the account at that bank or any other bank, for the year.

Distributions

Individuals may receive tax-free distributions from their HSA to pay for or be reimbursed for qualified medical expenses incurred after the establishment of the HSA.

Allowable Expenses	Disallowed Expenses
Qualified medical expense incurred overseas	Medical marijuana
COBRA premiums, long-term care insurance premiums, Medicare supplements	All other insurance premiums

HSA-qualified expenses are all medical expenses allowed by IRC Section 213, except insurance premiums. There is an exception for COBRA premiums, long-term care insurance premiums, or Medicare supplements, however if you pay these premiums with HSA funds you cannot claim the health coverage tax credit for the premiums.

Qualified medical expenses can be incurred by the policy holder/employee, their spouse, all dependents on the employee's tax return, and all people you could have claimed on your tax return unless that person filed a joint return, the person had a gross income of $4,200 or more, or you or your spouse (if filing jointly) could be claimed as a dependent on someone else's return.

The child of parents who are divorced (or separated, or living apart for the last 6 months of the calendar year) are considered dependents of both parents (regardless of whether the custodial parent releases the claim to the exemption) for purposes of HSA distributions.

In the event an individual loses HSA eligibility, they can spend the remaining HSA dollars on qualified medical expenses going forward.

If an HSA holder chooses to use HSA funds for nonmedical expenses, this is permitted. Those payments would be subject to a 20% tax, unless one of the following exceptions occurs:

- Payments are made following the account holder's death
- Payments are made after the account holder attained age 65
- Payments are made after the account holder becomes disabled
- Excess contributions are returned to the account holder
- Rollover contributions are paid into an HSA within the statutory timeframe

Correcting Over-funding

HSA contributions are not deductible if they exceed the maximum contribution limit, or are made by or on behalf of a person who is not an eligible individual.

An excise tax of 6% is imposed on the account holder for all excess contributions, regardless of who made them. The tax is cumulative, requiring the account holder to pay the tax on all excess contributions in the account, even if they were made in previous years. The 6% tax can be avoided with a curative distribution made before the account holder's deadline for filing their federal income tax return (including extensions). The net income of the excess contribution must be included in their gross income for the year.

Correcting Funding Mistakes

HSA funds are non-forfeitable, with two limited exceptions. The IRS, when providing these exceptions, did note that other corrections could be allowable if there is "clear documentary evidence demonstrating there was an administrative or process error."

The first exception is a mistake regarding the individual's eligibility to establish the HSA. If the employer discovers that the employee was never eligible to establish an HSA in the first place, it can request the financial institution return the balance of the account. If the account closure and balance return does not happen until after the end of the year, a corrected W-2 will be required, and if the employee had already filed their income taxes for that year, an amended tax return would be necessary. This exception does not allow an employer to recoup funds if the employee was HSA eligible when they opened the account, and later lost their eligibility.

The second exception is if an employer's contribution causes an employee's HSA to become funded over the maximum annual contribution allowed based on the employee's level of HDHP coverage (single or family). In that event the HSA trustee (the bank) may return the erroneous excess contribution to the employer upon the employer's request.

Updated as of 12/07/2021.

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