

## Chapter 32a Medical Care Savings Account Act

### 31A-32a-101 Title.

This chapter is known as the "Medical Care Savings Account Act."

Amended by Chapter 263, 2016 General Session

### 31A-32a-102 Definitions.

As used in this chapter:

- (1) "Account administrator" means any of the following:
  - (a) a depository institution as defined in Section 7-1-103;
  - (b) a trust company as defined in Section 7-1-103;
  - (c) an insurance company authorized to do business in this state under this title;
  - (d) a third party administrator licensed under Section 31A-25-203; and
  - (e) an employer if the employer has a self-insured health plan under ERISA.
- (2) "Account holder" means the resident individual who establishes a medical care savings account or for whose benefit a medical care savings account is established.
- (3) "Deductible" means the total deductible for an employee and all the dependents of that employee for a calendar year.
- (4) "Dependent" means the same as "dependent" under Section 31A-30-103.
- (5) "Eligible medical expense" means an expense paid by the taxpayer for:
  - (a) medical care described in Section 213(d), Internal Revenue Code;
  - (b) the purchase of a health coverage policy, certificate, or contract, including a qualified higher deductible health plan; or
  - (c) premiums on long-term care insurance policies as defined in Section 31A-1-301.
- (6) "Employee" means the individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. Employee includes a self-employed individual.
- (7) "ERISA" means the Employee Retirement Income Security Act of 1974, Public Law 93-406, 88 Stat. 829.
- (8) "Higher deductible" means a deductible of not less than \$1,000.
- (9) "Medical care savings account" or "account" means a trust account established at a depository institution in this state pursuant to a medical care savings account program to pay the eligible medical expenses of:
  - (a) an employee or account holder; and
  - (b) the dependents of the employee or account holder.
- (10) "Medical care savings account program" or "program" means one of the following programs:
  - (a) a program established by an employer in which the employer:
    - (i) purchases a qualified higher deductible health plan for the benefit of an employee and the employee's dependents; and
    - (ii) contributes on behalf of an employee into a medical care savings account; or
  - (b) a program established by an account holder in which the account holder:
    - (i) purchases a qualified higher deductible health plan for the benefit of the account holder and the account holder's dependents; and
    - (ii) contributes an amount to the medical care savings account.
- (11) "Qualified higher deductible health plan" means a health coverage policy, certificate, or contract that:

- (a) provides for payments for covered benefits that exceed the higher deductible; and
- (b) is purchased by:
  - (i) an employer for the benefit of an employee for whom the employer makes deposits into a medical care savings account; or
  - (ii) an account holder.

Amended by Chapter 116, 2001 General Session

**31A-32a-103 Establishing medical care savings accounts.**

- (1) For a taxable year beginning on or after January 1, 1995:
  - (a) an employer, except as otherwise provided by contract or a collective bargaining agreement, may offer a medical care savings account program to the employer's employees; or
  - (b) a resident individual may establish a medical care savings account program for the individual or for the individual's dependents.
- (2)
  - (a) A contribution into an account made by an employer on behalf of an employee, or made by an individual account holder may not exceed the greater of:
    - (i) \$2,000 in any taxable year; or
    - (ii) an amount of money equal to the sum of all eligible medical expenses paid by the employee or account holder for that taxable year on behalf of the employee, account holder, or the employee's or account holder's spouse or dependents.
  - (b) For purposes of Subsection (2)(a)(ii), eligible medical expenses are limited to expenses in the taxable year that an insurance carrier has applied to the employee's or account holder's deductible.
- (3) An employer that offers a medical care savings account program shall, before making any contributions:
  - (a) inform all employees in writing of the fact that these contributions may not be deductible under the federal tax laws; and
  - (b) obtain from the employee a written election to participate in the medical care savings account program.
- (4) Except as provided in Sections 31A-32a-105 and 59-10-114, principal contributed to and interest earned on a medical care savings account and money reimbursed to an employee or account holder for eligible medical expenses are exempt from taxation.
- (5)
  - (a) An employer may select a single account administrator for all of the employer's employee's medical care savings accounts.
  - (b) If a single account administrator is not selected, an employer may contribute directly to the account holder's individual medical care savings account.

Amended by Chapter 389, 2008 General Session

**31A-32a-104 Administration of medical care savings account.**

- (1) An account administrator shall administer the medical care savings account from which the payment of claims is made and has a fiduciary duty to the person for whose benefit the account administrator administers an account.
- (2)
  - (a) Except as provided in Subsection 31A-32a-105(1), the account administrator shall use the funds held in a medical care savings account solely for the purpose of paying or reimbursing

the employee or account holder for eligible medical expenses of the employee or account holder or of the employee's or account holder's dependents.

- (b) The commissioner shall adopt rules concerning the coordination of benefits between a medical care savings account and medical expenses payable from automobile insurance policies, workers' compensation insurance policies, or other health care insurance policies or contracts.
- (3) The employee or account holder may submit documentation of eligible medical expenses paid by the employee or account holder in the taxable year to the account administrator, and the account administrator shall reimburse the employee or account holder from the employee's or account holder's account for eligible medical expenses.
- (4) If an employer makes contributions to a medical care savings account program on a periodic installment basis, the employer may advance to an employee an amount necessary to cover eligible medical expenses incurred that exceed the amount in the employee's medical care savings account at the time the expense is incurred if the employee agrees to repay the advance.

Amended by Chapter 389, 2008 General Session

**31A-32a-105 Withdrawals -- Termination -- Transfers.**

- (1) Subject to Subsection (3), if the employee or account holder withdraws money for any purpose other than a medical expense at any time in which the balance in the account is below \$4,000:
  - (a) the amount of the withdrawal shall be added to adjusted gross income in accordance with Section 59-10-114; and
  - (b) the administrator shall withhold from the amount of the withdrawal, and on behalf of the employee or account holder shall pay a penalty to the State Tax Commission equal to 10% of the amount of the withdrawal.
- (2) If an employee or account holder withdraws money from the employee's or account holder's medical care savings account for any purpose other than a medical expense, but the withdrawal occurs when the balance in the medical care savings account is over \$4,000, and the withdrawal will not result in the account balance dropping below \$4,000, the amount of the withdrawal:
  - (a) is not subject to the penalties described in Subsection (1)(b); and
  - (b) shall be added to adjusted gross income in accordance with Section 59-10-114.
- (3) The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under 11 U.S.C. Sec. 101 to 1330, by an employee, account holder, or person for whose benefit the account was established:
  - (a) is not considered a withdrawal for purposes of this section; and
  - (b) shall be added to adjusted gross income in accordance with Section 59-10-114.
- (4)
  - (a) Upon the death of the employee or account holder, the account administrator shall distribute the principal and accumulated interest of the medical care savings account to the estate of the employee or account holder.
  - (b) A distribution under this Subsection (4) is not subject to the penalties described in Subsection (1)(b).
- (5)
  - (a) If an employee is no longer employed by an employer that participates in a medical care savings account program, and if the employee's account is administered by the employer's account administrator, the money in the medical care savings account may be used for the

benefit of the employee or the employee's dependents in accordance with this chapter, and may not be added to adjusted gross income under Section 59-10-114 if the employee, not more than 60 days after the employee's final day of employment:

- (i) transfers the account to a new account administrator; or
- (ii)
  - (A) requests in writing to the former employer's account administrator that the account remain with that administrator; and
  - (B) the account administrator agrees to retain the account.
- (b) Not more than 30 days after the expiration of the 60 days described in Subsection (5)(a), if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee at the employee's last-known address equal to the amount in the account on that day.
- (c) The amount mailed to the employee under Subsection (5)(b) shall be added to adjusted gross income in accordance with Section 59-10-114, but is not subject to the penalties under Subsection (1)(b).
- (d) If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer the employee's medical care savings account to that new employer's account administrator.
- (e) If an account holder becomes an employee of an employer that participates in a medical care savings account program, the account holder may transfer the account holder's account to the employer's account administrator.

Amended by Chapter 389, 2008 General Session

**31A-32a-106 Regulation of account administrators -- Administration of addition to adjusted gross income and tax credit -- Rulemaking authority.**

- (1) The department shall regulate account administrators and may adopt rules necessary to administer this chapter.
- (2) The State Tax Commission may adopt rules necessary to monitor and implement the amounts required to be added to adjusted gross income in accordance with Sections 31A-32a-105 and 59-10-114.

Amended by Chapter 263, 2016 General Session

**31A-32a-107 Penalties for noncompliance with tax provisions.**

- (1) An account administrator who fails to comply with a provision described in Subsection (2) is subject to:
  - (a) the civil penalties provided in Section 59-1-401; and
  - (b) interest at the rate and in the manner provided in Section 59-1-402.
- (2) The following provisions apply to Subsection (1):
  - (a) a provision of this chapter relating to an addition to income made in accordance with Section 59-10-114; or
  - (b) a provision of Title 59, Chapter 10, Individual Income Tax Act, relating to an addition to income made in accordance with Section 59-10-114.

Amended by Chapter 281, 2018 General Session