

## **IC 6-8-11**

### Chapter 11. Employee Medical Care Savings Account Plans

#### **IC 6-8-11-0.1**

##### **Application of chapter**

Sec. 0.1. (a) The addition of this chapter by P.L.92-1995 applies to taxable years beginning after December 31, 1995.

(b) The addition of this chapter by P.L.93-1995 applies to taxable years beginning after December 31, 1995.

*As added by P.L.220-2011, SEC.162.*

#### **IC 6-8-11-1**

##### **"Deductible" defined**

Sec. 1. As used in this chapter, "deductible" means the total deductible for an employee and all dependents of the employee for a calendar year.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-2**

##### **"Dependent" defined**

Sec. 2. As used in this chapter, "dependent" means any of the following:

- (1) The spouse of an employee.
- (2) An employee's child who is one (1) of the following:
  - (A) Less than nineteen (19) years of age.
  - (B) Less than twenty-three (23) years of age and enrolled as a full-time student at an accredited college or university.
  - (C) Legally entitled to the provision by the employee of proper or necessary subsistence, education, medical care, or other care necessary for the child's health, guidance, or well-being, and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.
  - (D) Mentally or physically incapacitated to the extent that the child is not self-sufficient.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-3**

##### **"Eligible medical expense" defined**

Sec. 3. As used in this chapter, "eligible medical expense" means an expense paid for medical care (as defined in Section 213(d) of the Internal Revenue Code).

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-4**

##### **"Employee" defined**

Sec. 4. As used in this chapter, "employee" means the individual:

- (1) for whose benefit; or
  - (2) for the benefit of whose dependents;
- a medical care savings account is established.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-5**

##### **"Higher deductible" defined**

Sec. 5. (a) As used in this chapter, for calendar year 1996, "higher deductible" means a deductible of:

- (1) not less than one thousand dollars (\$1,000); and
- (2) not more than five thousand dollars (\$5,000).

(b) For calendar years after 1996, the term means a deductible of:

- (1) not less than the figure set forth in subsection (a)(1), adjusted under subsection (c); and
- (2) not more than the figure set forth in subsection (a)(2), adjusted under subsection (c).

(c) The adjustments referred to in subsections (b)(1) and (b)(2):

- (1) may reflect increases in the general level of prices since 1995; and
- (2) must be based on:
  - (A) the Consumer Price Index updated monthly by the Bureau of Labor Statistics of the United States Department of Labor; or
  - (B) other figures issued by the government of the United States to indicate increases in the general level of prices in the United States.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-6**

##### **"Medical care savings account" or "account" defined**

Sec. 6. As used in this chapter, "medical care savings account" or "account" means an account established in Indiana under a medical care savings account program to pay the eligible medical expenses of an employee and dependents of the employee.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-7**

##### **"Medical care savings account program" defined**

Sec. 7. A "medical care savings account program" means a program established under this chapter to pay the eligible medical expenses of employees and dependents of employees through medical care savings accounts.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-8**

##### **"Qualified higher deductible health plan" defined**

Sec. 8. As used in this chapter, "qualified higher deductible health plan" means a health coverage policy, certificate, or contract that:

- (1) provides for the payment of eligible medical expenses that exceed a higher deductible;
- (2) is purchased by an employer for the benefit of employees and dependents of employees; and
- (3) is part of a medical care savings account program

established under this chapter.  
*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-9**

##### **Powers and duties of employer**

Sec. 9. (a) Except as otherwise provided by statute, contract, or a collective bargaining agreement, an employer may establish a medical care savings account program for the employer's employees.

(b) An employer that establishes a medical care savings account program under this chapter shall, before making any contributions to medical care savings accounts under the program, inform all employees in writing of the federal tax status of contributions made under this chapter.

(c) Except as provided in sections 17 and 23 of this chapter, the:

- (1) principal contributed by an employer to a medical care savings account;
- (2) interest earned on money on deposit in a medical care savings account; and
- (3) money:
  - (A) paid out of a medical care savings account for eligible medical expenses; or
  - (B) used to reimburse an employee for eligible medical expenses;

are exempt from taxation as income of the employee under IC 6-3-2-18.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-10**

##### **Requirements**

Sec. 10. (a) A medical care savings account program established by an employer under this chapter must include all of the following:

- (1) The purchase by the employer of a qualified higher deductible health plan for the benefit of one (1) or more employees and dependents of the employees.
- (2) The contribution by the employer, and the deposit into the medical care savings account established on behalf of each employee, of all or part of the difference between:
  - (A) the cost to the employer of purchasing a qualified higher deductible health plan for the benefit of the employee; and
  - (B) the cost previously incurred by the employer to pay the eligible medical expenses of the employee through a health coverage policy, certificate, or contract.

(3) The designation of an account administrator to administer the medical care savings accounts of employees.

(b) Notwithstanding subsection (a)(2), if an employer, before establishing a medical care savings account program under this chapter, did not pay the eligible medical expenses of the employer's employees through a health coverage policy, certificate, or contract, the employer may contribute all or part of the deductible of the qualified higher deductible health plan purchased by the employer to

establish the medical care savings account program.

(c) The contribution under subsection (b) must not exceed the following:

- (1) For 1996, five thousand dollars (\$5,000).
- (2) For calendar years after 1996, the figure set forth in subdivision (1), adjusted under subsection (d).

(d) The adjustments referred to in subsection (c):

- (1) may reflect increases in the general level of prices since 1995; and
- (2) must be based on:
  - (A) the Consumer Price Index updated monthly by the Bureau of Labor Statistics of the United States Department of Labor; or
  - (B) other figures issued by the government of the United States to indicate increases in the general level of prices in the United States.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2. Amended by P.L.66-1996, SEC.1.*

#### **IC 6-8-11-11**

##### **Contributions by employee**

Sec. 11. (a) A medical care savings account program established by an employer under this chapter may allow an employee to contribute money to the medical care savings account established for the employee. However, an employee may not contribute an amount larger than necessary to make the balance in the account equal the deductible.

(b) Notwithstanding sections 17 and 23 of this chapter, if an employee contributes money to an account under this section:

- (1) the money may be withdrawn from the account by the employee at any time and for any purpose without a penalty;
- (2) the withdrawal of the money by the employee is not income to the employee that is subject to taxation under IC 6-3-1 through IC 6-3-7; and
- (3) income earned on the money while it is in the account is not income to the employee that is subject to taxation under IC 6-3-1 through IC 6-3-7.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-12**

##### **Authorized account administrators**

Sec. 12. The following may be an account administrator under this chapter:

- (1) A federal or state chartered:
  - (A) bank;
  - (B) savings association;
  - (C) savings bank; or
  - (D) credit union.
- (2) A trust company authorized to act as a fiduciary.
- (3) An insurance company or a health maintenance organization

authorized to do business in Indiana under IC 27.

(4) A broker-dealer, an agent, or an investment advisor registered under IC 23-19.

(5) A person that is licensed as an administrator under IC 27-1-25.

(6) An employee welfare benefit plan that is governed by the federal Employee Retirement Income Security Act, 29 U.S.C. 1001 et seq.

(7) An employer that participates in the medical care savings account program.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2. Amended by P.L.79-1998, SEC.14; P.L.160-2003, SEC.1; P.L.27-2007, SEC.6.*

### **IC 6-8-11-13**

#### **Use of funds**

Sec. 13. An account administrator shall use the funds held in a medical care savings account exclusively for the purpose of paying the eligible medical expenses of the employee or the employee's dependents.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

### **IC 6-8-11-14**

#### **Prohibited use of funds**

Sec. 14. (a) Funds held in a medical care savings account shall not be used to cover medical expenses of the employee or the employee's dependents that are otherwise covered.

(b) Medical expenses that are "otherwise covered" for the purposes of this section include expenses covered by:

(1) an automobile insurance policy;

(2) a workers' compensation insurance policy or self-insured plan; or

(3) another health coverage policy, certificate, or contract.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

### **IC 6-8-11-15**

#### **Reimbursement**

Sec. 15. If an employee submits documentation to the account administrator concerning eligible medical expenses that the employee has incurred and paid for medical care for the employee or a dependent of the employee, the account administrator shall reimburse the employee from the employee's account for the eligible medical expenses paid by the employee.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

### **IC 6-8-11-16**

#### **Advancement of money**

Sec. 16. An employer that makes contributions to a medical care savings account program on a periodic installment basis may advance to an employee, interest free, an amount necessary to cover unpaid eligible medical expenses that exceed the amount in the employee's

medical care savings account if the employee agrees to repay the advance:

- (1) from future installments; or
- (2) when the employee ceases to be an employee of the employer.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-17**

##### **Withdrawal of money for other purposes**

Sec. 17. (a) An employee may, under this section, withdraw money from the employee's medical care savings account for a purpose other than the purposes set forth in section 13 of this chapter.

(b) Except as provided in section 11(b) of this chapter, if an employee withdraws money from the employee's medical care savings account on the last business day of the account administrator's business year for a purpose not set forth in section 13 of this chapter:

- (1) the money withdrawn is income to the individual that is subject to taxation under IC 6-3-2-18(e); but
- (2) the withdrawal does not:
  - (A) subject the employee to a penalty; or
  - (B) make the interest earned on the account during the tax year taxable as income of the employee.

(c) Except as provided in section 11(b) of this chapter, if an employee withdraws money for a purpose not set forth in section 13 of this chapter at any time other than the last business day of the account administrator's business year, all of the following apply:

- (1) The amount of the withdrawal is income to the individual that is subject to taxation under IC 6-3-2-18(e).
- (2) The administrator shall withhold and, on behalf of the employee, pay a penalty to the department of state revenue equal to ten percent (10%) of the amount of the withdrawal.
- (3) All interest earned on the balance in the account during the tax year in which a withdrawal under this subsection is made is income to the individual that is subject to taxation under IC 6-3-2-18(f).

(d) Money paid to the department of state revenue as a penalty under this section shall be deposited in the local health maintenance fund established by IC 16-46-10-1.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-18**

##### **Written notice required**

Sec. 18. (a) For the purposes of section 17(b) of this chapter, an account administrator that begins to administer a medical care savings account shall, in writing, notify the employee for whose benefit the account was established of the date of the last business day of the administrator's business year.

(b) The notice required by this section must be given not more

than thirty (30) days after the account administrator begins to administer the medical care savings account.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-19**

##### **Money exempt from execution**

Sec. 19. Money in a medical care savings account established under this chapter is exempt from execution under IC 34-55-10-2.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2. Amended by P.L.1-1998, SEC.85.*

#### **IC 6-8-11-20**

##### **Distribution upon death of employee with no covered dependents**

Sec. 20. (a) This section applies only to an employee who has no dependents who are covered under the medical care savings account established for the benefit of the employee.

(b) Upon the death of the employee for whose benefit a medical care savings account was established, the account administrator shall distribute the principal and accumulated interest of the account to the estate of the employee by mailing a check to the personal representative of the employee (as defined in IC 29-1-1-3).

(c) The distribution of the balance in a medical care savings account under this section is not income to the individual or to the estate of the individual that is subject to taxation under IC 6-3-1 through IC 6-3-7.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-21**

##### **Transfer of account**

Sec. 21. If an individual:

- (1) who was employed by an employer that participated in a medical care savings account program; and
- (2) whose employment was terminated;

becomes employed with a different employer that participates in a medical care savings account program, the individual may transfer the medical care savings account that was established for the individual's benefit by the former employer to the account administrator of the new employer.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

#### **IC 6-8-11-22**

##### **Termination of employment**

Sec. 22. If the employment of an individual by an employer that participates in a medical care savings account program is terminated, the money in the individual's medical care savings account may continue to be used for the benefit of the individual and the individual's dependents and remains exempt from taxation as provided under this chapter if, not more than sixty (60) days after the individual's final day of employment:

- (1) the individual transfers the individual's medical care savings

account to a new account administrator; or  
(2) the individual requests in writing that the former employer's account administrator remain the administrator of the individual's account, and the account administrator agrees to retain the account.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

### **IC 6-8-11-23**

#### **Procedures for payment upon termination**

Sec. 23. (a) This section applies when the employment of an individual by an employer that participates in a medical care savings account program is terminated.

(b) If the former employer is not informed, within ninety (90) days after the former employee's final day of employment, of the name and address of an account administrator to which the former employer is transferring the former employee's medical care savings account under section 21 of this chapter, the former employer shall pay the money in the former employee's medical care savings account to the former employee under subsection (d).

(c) If:

(1) the former employee, under section 22(2) of this chapter, requests in writing that the former employer's account administrator remain the administrator of the individual's medical care savings account; and

(2) the account administrator does not agree to retain the account;

the former employer shall, within ninety (90) days after the former employee's final day of employment, pay the money in the former employee's medical care savings account to the former employee under subsection (d).

(d) An employer that is required under this section to pay the money in a former employee's medical care savings account to the former employee shall mail to the former employee, at the former employee's last known address, a check for the balance in the account on the ninety-first day after the employee's final day of employment.

(e) Except as provided in section 11(b) of this chapter, money that is paid to a former employee under subsection (d):

(1) is subject to taxation under IC 6-3-1 through IC 6-3-7 as income of the individual; but

(2) is not subject to the penalty referred to in section 17(c)(2) of this chapter.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

### **IC 6-8-11-24**

#### **Distribution upon death of employee with dependents**

Sec. 24. (a) This section applies if an individual:

(1) whose employer participates in a medical care savings account program; and

(2) who has one (1) or more dependents who are covered under the account established for the benefit of the individual;

dies.

(b) After the death of an individual described in subsection (a), the money in the individual's medical care savings account may continue to be used for the benefit of the individual's dependents and remains exempt from taxation as provided under this chapter if, not more than sixty (60) days after the individual's death:

(1) the individual's medical care savings account is transferred to a new account administrator; or

(2) the dependents of the individual request in writing that the account administrator of the late individual's employer remain the administrator of the account, and the account administrator agrees to retain the account.

(c) If the former employer of an individual described in subsection (a) is not informed, within ninety (90) days after the individual's death, of the name and address of an account administrator to which the medical care savings account has been transferred under subsection (b)(1), the former employer shall pay the money in the medical care savings account to the estate of the individual under subsection (e).

(d) If:

(1) the dependents of an individual described in subsection (a), under subsection (b)(2), request in writing that the former employer's account administrator remain the administrator of the individual's medical care savings account; and

(2) the account administrator does not agree to retain the account;

the former employer shall, within ninety (90) days after the individual's death, pay the money in the individual's medical care savings account to the estate of the individual under subsection (e).

(e) Under the circumstances described in subsection (c) or (d), the account administrator shall distribute the principal and accumulated interest in the account to the estate of the individual by mailing a check to the personal representative of the individual (as defined in IC 29-1-1-3).

(f) The distribution of the balance in a medical care savings account under subsection (e) is not income to the individual or to the estate of the individual that is subject to taxation under IC 6-3-1 through IC 6-3-7.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*

## **IC 6-8-11-25**

### **Rules**

Sec. 25. (a) The insurance commissioner appointed under IC 27-1-1-2 and the department of state revenue may adopt rules under IC 4-22-2 necessary to implement this chapter.

(b) The rules adopted under this section must include a procedure for the adjustment of figures required by sections 5 and 10 of this chapter.

*As added by P.L.92-1995, SEC.2 and P.L.93-1995, SEC.2.*