

FEHB High Deductible Health Plans

High Deductible Health Plan (HDHP) Guidance

Tax-favored HSAs are available for people who are not eligible for Medicare and who have a qualifying HDHP. There are approximately 3.1 million individuals covered by FEHB who would be eligible to have an HSA if they were enrolled in an HDHP. According to Internal Revenue Service (IRS) guidance, an HDHP must have an annual deductible indexed each year of at least \$1,000 for self only coverage and annual out-of-pocket expenses (deductibles, co-payments, etc.) that do not exceed \$5,100. For family coverage, an HDHP must have an annual deductible of at least \$2,000 and annual out-of-pocket expenses that do not exceed \$10,200. An exception is available for preventive care services. Plans may offer first-dollar coverage for preventive care (or have only a small deductible) and still be considered an HDHP. However, generally, an HDHP may not provide benefits for any year until the deductible for that year is met.

By law, HSAs are not available to people who are eligible for Medicare (generally age 65 and over). The FEHB Program statute prohibits exclusions based on age. Therefore, in keeping with the spirit of our underlying legislation, we require carriers that offer an HDHP and an HSA to incorporate a health reimbursement arrangement (HRA) of equivalent value or other alternative benefits for those ineligible for an HSA. The HRA would be used for medical expenses, which may include Medicare premiums.

For FEHB carriers that make a proposal for an HDHP with an HSA/HRA, there are two alternatives for implementation. Carriers or underwriters that meet IRS fiduciary requirements may manage the HSA and HRA accounts themselves, or they may enter into partnership arrangements with fiduciary institutions or approved non-bank trustees or custodians. (IRS Bulletin 2003-40, dated October 6, 2003, http://www.irs.gov/irb/2003-40_IRB/ar21.html provides a comprehensive list of approved non-bank trustees and custodians.)

All proposals should clearly state how you intend to meet IRS requirements pertaining to HSA and HRA fiduciary responsibilities. In addition, we require that at a minimum, the trustee/fiduciary receive one of the two highest ratings in the most recent available period from a major financial rating service. This also applies if a carrier is acting as a fiduciary. Carriers may refer to Department of Treasury technical guidance at <http://www.ustreas.gov/offices/public-affairs/hsa/technical-guidance/> for additional information. For information on health reimbursement arrangements, please see IRS Notice 2002-45.

Your proposal should specify a deposit from premium, not to exceed the maximum Government contribution in 2006, to be deposited into the HSA or HRA of the enrollee. It should also include a description of your proposed deductibles, and the

benefit design after deductibles, and include any preventive services. The rates you propose should include an amount sufficient to cover the designated amount to be deposited/credited to the HSA/HRA, as well as the cost of your high deductible plan. We would expect any proposal for an HDHP to provide for sufficient access to in-network providers. We also expect the proposal will include sophisticated health education and consumer education components.

High Deductible Health Plan Criteria

- HDHPs must meet the requirements of the MMA.
- HDHP proposals must be rated in accordance with OPM guidelines. Proposals should reflect costs only, including the amount to be deposited in the enrollee's HSA/HRA.
- HDHP proposals should anticipate that these choices would be open to everyone eligible to enroll in the FEHB Program.

Health Savings Accounts (HSA) and Health Reimbursement Arrangements (HRA)

- Health Savings Accounts (HSA) must meet, at a minimum, the requirements specified in Internal Revenue Service (IRS) Guidance Notice 2004-2 <http://www.irs.gov/pub/irs-drop/n-04-2.pdf>.
- Fiduciary institutions for HSAs and HRAs must be banks or other non-bank trustees or custodians approved by the IRS. (See Internal Revenue Bulletin (IRB) 2003-40, dated October 6, 2003, for further reference- http://www.irs.gov/irb/2003-40_IRB/ar21.html.)
- FEHB carriers' proposals must include assurances the trustee is financially stable. At a minimum, the trustee/custodian must receive one of the two highest ratings for the most recent available period from a major financial rating service.
- FEHB carriers that offer HDHP and HSA/HRA proposals must describe, in detail, the flow of funds from receipt to disbursement to the designated fiduciary, and must provide a detailed description from the fiduciary on how the HSAs and HRAs will be established and monitored, including earnings for individual accounts.
- HDHP and HSA/HRA proposals that include the use of debit or credit cards should describe in detail how these would be managed and monitored, including accounting for earned interest.
- Treasury has issued guidance that addressed the issue of employer enrollment and disenrollment changes that are not effective on the first day of a calendar year and the corresponding effect on contributions to HSAs. For information on this and other recent guidance, see <http://www.ustreas.gov/offices/public-affairs/hsa/> and <http://www.irs.gov/newsroom/article/0,,id=97322,00.html>.