

CREDIT UNION HSA DISCLOSURE STATEMENT (Rev. 11/2007)

This publication discusses Health Savings Accounts (HSAs) in general and your credit union sponsored HSA in particular. This publication only discusses the federal tax rules, and you should consult your tax advisor concerning the tax laws of your state. Your credit union is referred to as "we" in this document.

Q1: What is a Health Savings Account (HSA)?

A1: An HSA is a trust or custodial account that is created in the United States for the exclusive purpose of paying or reimbursing qualified medical expenses. The account must be designated as an HSA when it is created.

Contributions can only be made into an HSA for the benefit of an eligible individual. Employer contributions are tax-free, and the account owner generally gets an income tax deduction for contributions by anyone other than the owner's employer. Distributions from an HSA are tax-free if the money is used to pay or reimburse uninsured qualified medical expenses for the account owner, his or her spouse, or dependents.

Q2: Who is an eligible individual?

A2: An eligible individual is generally someone who is covered by a high deductible health plan (HDHP) and is not covered by certain other plans that pay medical expenses. The HDHP coverage can be provided through the individual's employer or through the employer of the individual's spouse. Eligibility is determined as of the first day of each month.

An individual who is enrolled in the Medicare program loses HSA eligibility. An individual who receives VA medical benefits loses HSA eligibility for the next three months after receiving these benefits.

An individual who is covered by a health reimbursement arrangement (HRA) or by a flexible spending account (FSA), also known as a health cafeteria plan, generally loses HSA eligibility. However, HSA eligibility is not lost if the FSA or HRA is coordinated with the HDHP. Your employer should be able to tell you if its FSA or HRA is properly coordinated with the HDHP.

An individual who is covered by a prescription drug plan (outside the HDHP) that pays benefits before reaching the minimum annual deductible discussed in A3 loses HSA eligibility.

The general rule is that an individual loses HSA eligibility by being covered by any other plan which provides coverage for any benefit which is covered under the HDHP if its deductible has been met. However, there are two groups of exceptions:

A. The following insurance coverage is ignored in determining HSA eligibility: (1) insurance for a specified disease

or illness, (2) hospitalization insurance paying a fixed amount per day (or other time period) of hospitalization, (3) tort liability insurance, (4) insurance for liabilities relating to ownership or use of property, and (5) insurance for such other similar liabilities as the IRS may specify by regulations.

B. The following medical plans (whether provided through insurance or without insurance) are ignored in determining HSA eligibility: (1) coverage for accidents, (2) coverage for disability, (3) coverage for dental care, (4) coverage for vision care, (5) coverage for long-term care, (6) coverage for liabilities incurred under workers' compensation laws, (7) a discount card that allows the individual to obtain discounts for health care services or products, (8) coverage under an employee assistance program, disease management program, or wellness program that does not provide significant benefits for medical care or treatment.

Q3: What is a high deductible health plan (HDHP)?

A3: For single coverage during 2008, the annual deductible must be at least \$1,100 (also \$1,100 for 2007) and the annual out-of-pocket expenses cannot exceed \$5,600 (\$5,500 for 2007). For family coverage during 2008, the annual deductible must be at least \$2,200 (also \$2,200 for 2007) and the annual out-of-pocket expenses cannot exceed \$11,200 (\$11,000 for 2007). These dollar limits are subject to cost-of-living adjustments for years after 2008.

Coverage for preventive care does not disqualify a plan. Preventive care includes periodic physicals, routine pre-natal and well-child care, immunizations, smoking cessation programs, weight-loss programs, and health screening tests.

Out-of-pocket expenses are those not paid by the plan due to plan deductibles, co-payments, and other amounts other than plan premiums. For plans that use a network of providers, the annual deductible and maximum out-of-pocket costs are determined using the assumption that all services will be obtained inside the network.

Q4: How much can I contribute to an HSA?

A4: The annual contribution limits, adjusted each year for inflation, are different for single and family policies. The annual contribution limit for single coverage during 2008 is \$2,900 (\$2,850 for 2007). The annual contribution limit for family coverage during 2008 is \$5,800 (\$5,650 for 2007).

Eligibility is generally determined on a monthly basis as of the first day of each month. Under this rule, the monthly contribution limit is 1/12th of the annual contribution limit.

Example. Frederick has single coverage under an HDHP for the first ten months of 2008, and then loses coverage due to a change in jobs. His contribution limit for each month is \$241.66 (1/12th of \$2,900) and his contribution limit for 2008 is \$2,416.66.

The one exception to the monthly eligibility rule is that a person who is an eligible individual during the last month of the person's tax year (December for a calendar-year taxpayer) is treated as having been an eligible individual during every month of the year. The person is treated as having been a participant in the same high deductible health plan that covers the individual in the last month.

A penalty is imposed if a contribution is made for a person under the last month eligibility rule and the person does not remain an eligible individual until the end of the owner's following tax year. This penalty is not imposed if ineligibility is caused by the death or disability of the eligible individual. This penalty is that the contributions that were made in reliance on the last month rule (which are pre-tax dollars in the HSA) are treated as taxable income for the year that includes the first month of ineligibility. These contributions are also subject to an additional 10% tax. These contributions are not treated as excess contributions, and they do not have to be withdrawn from the HSA.

Example. Marlene, age 37, was an eligible individual from October through December 2007, and she was not an eligible individual during any prior month in 2007. She could make HSA contributions for all 12 months of 2007 under the last month eligibility rule. If she continues to be an eligible individual for all of 2008, these 2007 contributions are treated like any other properly made HSA contributions.

Example. Greta, age 42, was also an eligible individual from October through December 2007. Greta and her employer made 2007 contributions totaling \$2,500, which is less than the maximum contribution of \$2,850 for single coverage for someone under age 55. Greta was laid off in August 2008, and as a result she was not an eligible individual at the end of 2008. In this case, her 2007 HSA contributions in excess of the allowed contributions for October through December would be included in her 2008 gross income, and it would be subject to an additional 10% tax. The amount of this taxable income is \$1,787.50. This is computed by subtracting her maximum contributions for the three months of eligibility during 2007 (\$712.50) from the amount of 2007 regular contributions to her HSA (\$2,500).

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Q5: Is the contribution limit increased for older people?

A5: An eligible individual who will attain age 55 before the end of the year for which contributions are being made can contribute an additional amount that is known as a "catch-up contribution." Someone who meets this age test and is eligible for the entire year can contribute an additional \$900 for 2008 (\$800 for 2007). The catch-up contribution is subject to the monthly eligibility and last month eligibility rules described in A4.

Example. Frederick (see the first example in A4) is 57 years old and is eligible for the first ten months of 2008. His maximum catch-up contribution for 2008 is \$750 (\$75 per month times 10 months).

Q6: What if I am married and we have a family coverage HDHP?

A6: Special rules are used to determine the contribution limits of a married couple that is covered by a family coverage HDHP.

1. If a family coverage HDHP is the only health plan the family has, then both spouses are eligible individuals.
2. If a family is covered by two family coverage HDHPs, and these are the only health plans the family has, then both spouses are eligible individuals.
3. If a family is covered by a family coverage HDHP and one spouse is also covered by a single coverage HDHP, then both spouses are eligible individuals. The single coverage HDHP is ignored in computing contribution limits.
4. If a family is covered by a family HDHP and one spouse is covered by a single coverage plan that is not an HDHP or is covered by Medicare, then the spouse with the family coverage HDHP is treated as being covered by a family HDHP, and the spouse with a single coverage non-HDHP is not an eligible individual. This does not affect the family coverage contribution limit for the eligible spouse.
5. If one spouse has family HDHP health coverage and the other spouse is covered by a family plan that is not an HDHP, then neither spouse is an eligible individual.

The family coverage contribution limit is divided between the spouses in the first three situations. The couple can divide this limit in any manner they want, including one spouse contributing the entire amount. If the combined contributions exceed the family coverage contribution limit, then the presumption is that this limit was divided equally between the two spouses.

A spouse that is unable to make HSA contributions may still obtain the benefits of an HSA through the HSA of the other spouse (see A15 and A16).

Q7: Can my employer contribute to my HSA?

A7: Your employer can use its own funds to contribute to your HSA if you are an eligible individual (see A2). Employer contributions are excluded from income tax to the extent they do not exceed the contribution limit (see A4 through A6). Employer contributions are also excluded from FICA, FUTA, the Railroad Retirement tax, and withholding. The amount you can contribute to your HSA is reduced by the amount contributed by your employer for the same year.

Q8: Can I make HSA contributions through the cafeteria plan at work?

A8: HSA contributions are a permitted use of the money in a health flexible spending account (FSA), which is often called a cafeteria plan. Participation in an FSA makes you ineligible to contribute to an HSA unless the FSA is coordinated with the HSA rules. Your employer should be able to tell you if its FSA is properly coordinated with HSA participation. HSA contributions made through an FSA are treated as employer contributions (see A7).

Q9: When can I make regular contributions to my HSA?

A9: You can make regular HSA contributions at any time from the beginning of the year up until the time prescribed by law for filing the tax return for the year, not including filing extensions. If you report income on a calendar tax year basis, the deadline for making a regular HSA contribution for a year is April 15 of the following year. If April 15 is a weekend or a legal holiday at the address to which you mail your federal tax return, then the deadline is the next business day. You can make a regular HSA contribution until this deadline even if you have already filed your tax return for the year. You can make regular HSA contributions periodically during the year, or in a single contribution for the year.

Q10: Can I deduct contributions to my HSA?

A10: You cannot deduct contributions made by your employer or contributions made through a flexible spending account (cafeteria plan), which makes sense since these contributions are made on a tax-free basis. You can deduct your contributions and contributions made by anyone other than your employer that are within the contribution limits discussed above.

Q11: What other rules control my HSA contributions?

A11: No income limit. You can make HSA contributions regardless of your income if you are an eligible individual.

No age limit. You can make HSA contributions regardless of your age if you are an eligible individual.

Archer MSAs. The amount you can contribute to your HSA is reduced by the amount of Archer MSA contributions made for the same year. The Archer MSA was the pilot program for HSAs, and few people have Archer MSAs.

Cash contributions required. Regular HSA contributions must be made in cash (currency, checks, etc.). Contributions of stock or other property are not allowed.

Community and marital property laws. Community and marital property laws are disregarded for purposes of determining HSA contributions. You and your spouse must meet the qualifications for contributions individually.

Q12: Can I move money from one HSA to another?

A12: Direct transfer. You can move money between HSAs by having the assets directly transferred between the HSAs. You do this by instructing the fiduciary of your HSA to direct transfer the money to the fiduciary of another HSA in your name. You should set up the HSA that will receive the direct transfer before you start the direct transfer. The "fiduciary" is the trustee, custodian, or insurance company that issues the HSA. A direct transfer can be made without worrying about the once-a-year rule, and a direct transfer does not count as a rollover for purposes of applying the once-a-year rule to a later rollover.

Rollovers. You can move money between HSAs by withdrawing the money from your HSA and contributing part or all of the distribution to the same or another HSA in your name. You can roll over a distribution only if you meet these tests:

60-day rule. You must contribute the money to an HSA within 60 days after you receive the distribution. The 60-day period may be extended if the money cannot be withdrawn from a financial institution because it is in financial trouble.

Once-a-year rule. An HSA distribution cannot be rolled over if any other distribution from the same HSA has been rolled over during the preceding 365 days. An HSA distribution also cannot be rolled over if the distributing HSA has received a rollover contribution from an HSA during the preceding 365 days.

Q13: Can I move money from any other plans to my HSA?

A13: Archer MSAs. You can direct transfer funds from your Archer MSA to your HSA. You can also roll over a distribution from your Archer MSA to your HSA within 60 days after you receive the distribution.

Traditional IRAs. An eligible individual can use a direct rollover to move money from most traditional IRAs to an HSA. The exceptions are that the money cannot come from an IRA that will receive SEP or SIMPLE contributions from an employer whose tax year ends during the individual's tax year.

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An individual can generally make this type of direct rollover only once in a lifetime.

This type of transaction is considered a regular HSA contribution, and it reduces the other HSA contributions that can be made for the year in which the transaction occurs.

FSAs and HRAs. An eligible individual can use a direct rollover to move money from a health flexible spending account (FSA) or health reimbursement arrangement (HRA) to an HSA. The amount that can be transferred cannot exceed the lesser of (a) the balance of the FSA or HRA on 9/21/2006 or (b) the balance of the FSA or HRA on the date of distribution. The direct rollover must occur by the end of 2011. An individual can only make one of these direct rollovers from each FSA or HRA. Such a direct rollover is treated as a rollover contribution.

Other tax-advantaged plans. There are no provisions in the tax laws that authorize a rollover or transfer to an HSA from a Roth individual retirement account (IRA), a qualified retirement plan (QRP), or an education savings account (ESA). There are also no provisions in the tax law that authorize a rollover or transfer from an HSA to any other type of tax-advantaged saving arrangement.

Q14: What if too much is contributed to my HSA?

A14: If your employer made HSA contributions in excess of your contribution limit, the excess is included in your gross income. If you or someone else made HSA contributions in excess of your contribution limit, the excess is not deductible. In either case, you should address the excess contribution situation.

Withdraw the excess contribution before the early withdrawal deadline.

Contributions that exceed the contribution limit for a year can be withdrawn tax-free up until the deadline for filing your federal income tax return for the year for which the contributions were made, including filing extensions. The income attributable to the withdrawn contribution must also be withdrawn, and it is taxable income in the year in which it is received. A contribution that is permitted by the tax laws cannot be withdrawn under this rule.

If you timely filed your tax return for the year, then your deadline is automatically extended for six months after the original tax filing deadline. For example, if you filed your return by April 15, then you can withdraw the excess contribution until October 15. You must file an amended tax return reflecting the tax effects of the transaction within three years after your filing deadline and write "Filed pursuant to section 301.9100-2" at the top of the amended return. The amended return must reflect the tax effects of the withdrawal (including a report of the income attributable) and include an explanation of the withdrawal.

Excess contribution tax. Excess contributions that are not withdrawn by the early withdrawal deadline are subject to a nondeductible 6% excess contribution tax for the year in which the contribution was made

and each year thereafter until the excess is eliminated.

Withdraw the excess contribution after the early withdrawal deadline. You can correct an excess contribution situation by receiving a taxable distribution from your HSA.

Q15: How can I use the money in my HSA?

A15: The money in your HSA can be distributed tax-free up to the amount of the qualified medical expenses that you pay. Qualified medical expenses are amounts you pay for certain types of medical care for yourself, your spouse, and your dependents, but only to the extent such amounts are not covered by insurance or another health plan.

You can use an HSA distribution to pay or reimburse any qualified medical expenses incurred after your first HSA was established, including expenses incurred in a prior year. HSA distributions are tax-free to the extent that the aggregate HSA distributions since you established your first HSA do not exceed the aggregate qualified medical expenses incurred during the same time period.

You are responsible for determining whether a cost is a qualified medical expense. You must keep records sufficient to show that: (1) the distributions were to pay qualified medical expenses or to reimburse you for qualified medical expenses you paid from other sources, (2) the expenses were not paid or reimbursed from another source (such as insurance), and (3) the expenses were not taken by anyone as a tax deduction.

Q16: What are qualified medical expenses?

A16: Your qualified medical expenses are the amounts you pay for certain types of medical care for yourself, your spouse, and your dependents, but only to the extent such amounts are not covered by insurance or otherwise reimbursed. You can pay the medical expenses of your spouse or dependent even if that person is covered by a health plan that is not an HDHP or that person also has an HSA.

The uninsured portion of the cost of the following types of medical care is a qualified medical expense if it is incurred for you, your spouse, or your dependents:

1. The costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. This includes prescription and nonprescription drugs used for these purposes (but not nonprescription dietary supplements).
2. Transportation primarily for and essential to medical care referred to above.
3. Qualified long-term care services.
4. Premiums for health insurance obtained under the federal COBRA rules following termination of employment.
5. Qualified long-term care insurance premiums up to the amount that could be deducted if paid from another source under the limits in IRC 213(d)(10).

6. Health insurance premiums while you are receiving unemployment compensation.

7. Premiums for health insurance after you are enrolled in Medicare, except for Medicare supplemental insurance.

Q17: What happens if HSA withdrawals exceed qualified medical expenses?

A17: Distributions in excess of qualified medical expenses are subject to income tax in the year in which you receive the money. These distributions are usually subject to an additional 10% tax, except that the additional 10% tax does not apply (a) if you are disabled, (b) if you have reached age 65, or (c) after your death.

Q18: What happens to my HSA after my death?

A18: You may designate one or more beneficiaries to receive the balance of your HSA after your death. If you do not designate a beneficiary or if none of the beneficiaries you designate are alive on the day after your death, then your HSA will be paid to your surviving spouse. If you do not have a surviving spouse, then it will be paid equally to your children. If you are not survived by any children, then it will be paid to your estate. The community or marital property laws of your state may grant your surviving spouse a portion of your HSA regardless of your designation of beneficiaries.

If your spouse is the only beneficiary of your HSA, then your spouse will become the owner of the HSA. Your spouse will be able to use the HSA to pay medical expenses or transfer the assets of the HSA to another HSA set up by your spouse.

If anyone other than your spouse is the beneficiary of your HSA, then the account ceases to be an HSA on the date of your death. The value of the HSA at the time of your death is generally included as income on the beneficiary's income tax return for that year. But the taxable amount is reduced by the amount of qualified medical expenses that were incurred by the decedent and were paid by the beneficiary who received the HSA within one year after the date of death.

If your estate is the beneficiary, then the value of the HSA at the time of your death is included as income on your final personal income tax return for the year of your death. The taxable amount is not reduced by the amount of medical expenses paid by the estate.

Q19: What are my responsibilities in connection with my HSA?

A19: You are responsible for making sure that the HSA contributions made to your HSA do not exceed your contribution limits. You are responsible for making sure that the distributions that you receive from your HSA do not exceed the qualified medical expenses that you pay for yourself, your spouse, and your dependents. You are also responsible for maintaining records to prove to the IRS that your HSA contributions and distributions do not exceed applicable limits.