

High Deductible Health Plan and Health Savings Accounts: Implementation Checklist for Employers

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This Checklist is designed to assist employers in implementing a high deductible health plan (HDHP) compatible with health savings accounts (HSA). This Checklist is based on the state of the law as of January 1, 2008. Employers are urged to consult with their legal, tax and other professional advisors before implementing an HDHP or HSA program.

I. Determine Level of Employer Involvement. Options:

- Sponsor HDHP only, allowing participating employees to be HSA-eligible, but not take a role in assisting employees with opening and funding HSA.
- Sponsor HDHP; contract with HSA custodian or trustee ("HSA provider") to assist with opening HSA, but do not assist with funding.
- Sponsor HDHP; contract with HSA provider; offer employees payroll deduction to fund HSA, but no employer contributions.
- Sponsor HDHP; contract with HSA provider; make employer contributions to fund HSA, but do not offer employees payroll deduction.
- Sponsor HDHP; contract with HSA provider; make employer contributions; and offer employees payroll deduction.

II. HDHP Design Issues (consult with insurer).

- If Employer currently offers a non-HDHP group health plan, address transition issues.
 - Determine whether HDHP will be the only major medical group health plan Employer will offer.
 - Does Employer have enough employees to sustain more than one type of major medical group health plan?
 - Will insurer be willing to offer more than one type of plan?

- When will HDHP start?
 - January 1 implementation of HDHPs and HSAs are much simpler than mid-year implementation.
 - If current health plan is not on a calendar year, can a short plan year be used to get to the next January 1?
- Determine deductibles and out of pocket expense levels.
 - Will the statutory minimum deductible amount be used, or will a higher deductible be imposed?
 - Will the statutory maximum out of pocket expense amount be used, or will a lower amount be imposed?
- Determine total premium for HDHP and amount to be paid by Employer and by employee.

III. Other HDHP Issues.

- Determine whether Employer currently sponsors any other health plans that may need to be coordinated with the HDHP. For example:
 - Cafeteria Plan (Flex Plan/125 Plan)
 - Health Flexible Spending Arrangement (health FSA)
 - Health Reimbursement Arrangement (HRA)
 - Prescription Drug Benefits
 - Vision Plan
 - Dental Plan
 - Employee Assistance Program (EAP) or Wellness Program
- Determine what changes to other plans may be necessary. For example, if an Employer sponsors a health FSA and wishes to adopt an HDHP, the Employer could:
 - Terminate the health FSA.
 - Convert it to a "limited" health FSA, providing only coverage permitted with HDHPs (such as only vision or dental coverage).
 - Convert it to a "post-deductible" health FSA, providing reimbursement only after the employee has paid the required minimum deductible.

IV. Choosing HSA Provider.

- Solicit information from HSA providers.
 - Determine enrollment, maintenance and other fees, imposed on both Employer and employees. Are fees reasonable and competitive?
 - Determine available investment options for account balances.
 - Determine what other services the HSA provider offers. For example:
 - Preparing annual reports for Employer, for IRS, etc.
 - Assistance with following comparability rules for Employer contributions.
 - Assistance with explaining HSAs to employees.
 - Offering HSA account holders checks or debit card for HSA payments for medical expenses or other withdrawals.
- Determine process for transmitting HSA contributions and information to HSA provider.
 - Will proprietary software be required?
 - Are there penalties for late or improperly transmitted information?

V. Other HSA Issues.

- Funding Options.
 - Determine whether and how much the Employer will contribute to employees' HSAs.
 - If Employer will make contributions, determine timing. For example:
 - On a payroll by payroll basis.
 - Full amount at end of year. (HSA contribution must be made by employee's tax-filing deadline, generally April 15 of following year.)
 - Full amount at beginning of year. (An advantage of this is that then the full amount is immediately available to employees to use to pay the year's deductible or other medical expenses; a disadvantage is that Employer contributions are nonforfeitable, so an employee could quit shortly after the start of the year and walk away with the full Employer contribution.)
- Determine whether to adopt or amend a cafeteria plan to allow HSA contributions. (If Employer will be making employer contributions, a cafeteria plan provides more flexibility. Contributions through a cafeteria plan avoid the HSA comparability rules for employer contributions; for example, allowing the Employer to make a "matching" contribution based on the amount the employee contributes.)
- If Employer will make contributions or allow payroll deduction, will it forward contributions only to certain HSA providers? (Employees still may set up HSAs at other providers and fund on their own.)

VI. Employee Communication.

- Explain HDHP rules and any changes from prior health plan offered by Employer.
 - Deductible rules.
 - Limitation on other coverage. Address:
 - Coverage under other Employer plans (for example, health FSA).
 - Coverage under spouse's plans.
 - Update Summary Plan Description and other health plan materials provided to employees.
- Explain HSA rules:
 - General eligibility for HSAs.
 - Maximum contribution amounts.
 - How amounts may be withdrawn tax-free.
 - Withdrawals that will trigger tax.
- Explain services offered by any HSA provider working with Employer.
- Communicate other benefit of HDHP/HSA to employee. For example:
 - Health insurance premium savings.
 - Employer able to offer health coverage that otherwise might not be available.
 - Employer contribution amount, if applicable.
 - Ability to grow HSA balance and tax savings.

For more information on this topic, please contact Jeff Storch at Boardman Law Firm LLP in Madison, Wisconsin. Jeff has advised employers on all facets of HSAs, HDHPs and other benefits plan issues. Some of his articles on the subject can be found at boardmanlawfirm.com/readingroom. Jeff can be reached at (608) 283-1781 or jstorch@boardmanlawfirm.com.

This Checklist is only a broad overview of some of the main issues involved in implementing HDHPs and HSAs and is not legal advice, nor should it be construed as legal advice. Individuals should seek advice based on their particular circumstances from their own counsel and other professional advisors knowledgeable in the area.