

ACT 158

S.B. NO. 2885

A Bill for an Act Relating to Health Savings Accounts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Health savings accounts are an encouraging development in the health insurance market, creating a new opportunity for affordable cov-

erage and engaging patients as partners in managing costs and achieving high value in health care spending.

Health savings accounts combine a tax-advantaged savings account earmarked for medical expenses with a high-deductible health insurance plan. Lower insurance premiums offset, in part or in full, the amount used to fund the account, which, in turn, are used to pay expenses before the deductible is met.

Health savings account funds belong to the account holder, and unspent balances accumulate and accrue interest tax-free from year to year. After health care costs reach the high deductible, health plan benefits begin, typically through a preferred provider organization, with little to no cost-sharing and limits on total out-of-pocket expenses.

Because patients using health savings account funds are literally spending their own money, they have greater control over their health care decisions, while assuming greater financial responsibility for those decisions. Furthermore, because patients are spending their own money before the deductible is met, high deductibles shift the locus of cost-consciousness, and thus decision-making, from third-party payers to patients and those who care for them. Such cost-consciousness is a welcome antidote to the widening divide between public expectations and rising health care costs and could lessen the need for heavy-handed managed care or government controls. Health savings accounts encourage patients to comparison shop among treatment options, as well as among physicians and hospitals. A critical mass of savvy shoppers is needed to make health care markets more responsive for everyone.

In addition, health savings accounts provide a health coverage option to those who prefer to purchase true insurance protection against the financial consequences of low-probability, high-cost events, rather than coverage that, to a large extent, amounts to prepayment of anticipated and routine health care. High deductibles keep premiums down, bringing coverage within reach for many low-income individuals and families.

Several features of health savings accounts protect against inappropriate underutilization of care. The savings account itself allows enrollees to set aside money to pay for medical expenses, particularly expenses incurred before the deductible has been met. Federal law requires health savings account high-deductible health plans to provide a stop-loss limit on patient out-of-pocket expenses. A person with a chronic or expensive medical condition could find a health savings account more affordable than conventional coverage because of the premium savings, out-of-pocket spending limits, and tax advantages, in addition to greater control over health care decisions.

Although more evidence is needed on the actual impact of health savings accounts on patient behavior and on mechanisms through which such an impact occurs, health savings account coverage may encourage patients to seek health information that prompts greater use of preventive services or adoption of healthy lifestyle habits. Health savings accounts could also increase aversion to behavior that may create future chronic conditions that are expensive to treat.

It is imperative that health care leaders come together to discuss ways in which health savings accounts can assume a more meaningful role in health care coverage in Hawaii. Under the Hawaii Prepaid Health Care Act, the director of labor and industrial relations, after advice from the prepaid health care advisory council, determines whether the benefits that are provided in a prepaid health care plan offered by a Hawaii employer comply with specified standards. Issues with the Hawaii Prepaid Health Care Act need to be addressed to determine the role of health savings accounts in Hawaii's health insurance market. Health savings accounts are currently an option under the Hawaii employer-union

health benefits trust fund, as well as an option for sole proprietors, self-employed individuals, and those working as part-time employees.

The rapidly rising cost of health care is crippling businesses, forcing layoffs and pay reductions. It is important that businesses and health care consumers have access to all health plan options to lower costs and increase the quality of care. Allowing consumers to enroll in a health savings account will help lower the cost of health care, encourage healthier lifestyles, provide greater patient and physician control of health care decisions, and save money for employers and employees alike.

The purpose of this Act is to establish a task force to evaluate the current state of health savings accounts options in Hawaii's health insurance market, and to explore ways to expand access to these accounts in Hawaii.

SECTION 2. (a) There is established the health savings accounts assessment task force within the department of labor and industrial relations for administrative purposes and consisting of the following members:

- (1) The director of labor and industrial relations, who shall appoint the task force members by August 1, 2010;
- (2) Two members of the Hawaii prepaid health care advisory council;
- (3) One member or employee of the Hawaii Medical Association;
- (4) Two representatives from the health insurance industry;
- (5) Two representatives from non-government employee unions;
- (6) One representative from the Hawaii Credit Union League;
- (7) One representative from the Hawaii Bankers Association; and
- (8) Two representatives from other interested organizations or stakeholders, at the discretion of the director of labor and industrial relations.

The task force shall elect from among its members a chairperson and any other officers it deems necessary. Members of the task force shall not be compensated.

The task force shall convene its initial meeting no later than twenty days after the director of labor and industrial relations has appointed all of the members of the task force.

(b) The task force shall:

- (1) Study the current state of health savings account options in Hawaii's health insurance market;
- (2) Establish a plan of action to encourage and expand the use of health savings accounts in Hawaii, including potential amendments to the Hawaii Revised Statutes;
- (3) Identify and recruit health plans that may help expand the availability of health savings accounts in Hawaii;
- (4) Assess the potential economic impact, including costs and benefits, of expanding health savings account options in Hawaii, and estimate the potential monetary savings for individuals and employers who are offered health savings accounts; and
- (5) Work to develop a way to implement flexible spending accounts for employee benefit programs that provide a tax deferred method of payment for eligible health care expenses and dependent care expenses by directing pre-tax money from an employee's paycheck into flexible spending accounts, and providing that money left in the flexible spending accounts after all reimbursements have been processed may be carried forward to the next plan year.

For the purposes of this subsection, "health savings account" means a tax-deferred personal savings account, as set forth in Internal Revenue Code Section

223, linked to a high-deductible health insurance plan and to which employers, sole proprietors, labor unions, or employees may contribute funds for medical expenses.

(c) The task force shall submit to the legislature, through the department of labor and industrial relations, its findings and recommendations, including any proposed legislation, no later than twenty days prior to the convening of the 2011 regular session.

(d) The task force shall cease to exist on June 30, 2011.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.