

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1312\*

Short Title: Authorize MSAs.

(Public)

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Sponsors: Representatives Edwards; Aldridge, Allred, Arnold, Baker, Berry, Black, Brawley, Buchanan, Cansler, Capps, Church, Clary, Culp, Cummings, Daughtry, Davis, Dockham, Esposito, Gardner, Hill, Howard, Justus, Kiser, Linney, McComas, McCombs, K. Miller, Mitchell, Neely, Nichols, Pate, Rayfield, Reynolds, Russell, Sexton, Shubert, Tolson, Weatherly, C. Wilson, G. Wilson.

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Referred to: Finance.

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May 23, 1996

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE MEDICAL SAVINGS ACCOUNT PLANS THE  
2 CONTRIBUTIONS TO WHICH ARE DEDUCTIBLE FROM STATE TAXES  
3 UNDER CERTAIN CIRCUMSTANCES.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 50 of Chapter 58 of the General Statutes is amended by  
7 adding the following new sections to read:

8 **"§ 58-50-158. Title and reference.**

9 This section and G.S. 58-50-159 through G.S. 58-50-164 are known and may be  
10 referred to as the Medical Savings Account Act, referred to in those sections as 'this Act'.

11 **"§ 58-50-159. Purpose and intent.**

12 The purpose and intent of this Act is to provide incentives to North Carolina's citizens  
13 to help reduce their health care costs by planning for future medical care expenses, by  
14 foregoing unnecessary medical treatment, and by seeking the best value for their health  
15 care dollars when treatment is necessary. To that end, this Act authorizes the  
16 establishment of medical savings account plans, contributions to which are State income

1 tax deductible to the extent that funds disbursed from the account are used to pay eligible  
2 medical expenses of the account holder.

3 **"§ 58-50-160. Definitions.**

4 As used in this Act, unless the context clearly requires otherwise, the term:

5 (1) 'Account administrator' means any of the following:

6 a. A nationally or state-chartered bank, savings and loan  
7 association, savings, bank, or credit union;

8 b. A trust company authorized to act as a fiduciary;

9 c. An insurance company, health maintenance organization, or  
10 hospital or medical service corporation authorized to do business  
11 in this State;

12 d. A third-party administrator;

13 e. A certified public accountant; or

14 f. An employer, if the employer has a self-insured health plan under  
15 ERISA.

16 (2) 'Account holder' means the individual or employee for whose benefit a  
17 medical savings account is established.

18 (3) 'Commissioner' means the Commissioner of Insurance.

19 (4) 'Deductible' means the total covered medical expense the employee or  
20 employee's dependents must pay prior to any payment by the HDC  
21 coverage provided under the Plan.

22 (5) 'Eligible medical expense' means an expense paid by a taxpayer for  
23 medical care as described in section 213(d) of the Internal Revenue  
24 Code except that the term does not include medical expenses of the  
25 account holder or the account holder's covered dependents that are  
26 covered by the account holder's automobile insurance policy, workers'  
27 compensation insurance policy, self-insured plan, or other health  
28 insurance coverage, or that another third party is obligated to cover.

29 (6) 'Employee' means the individual for whose benefit, or for the benefit of  
30 whose dependents, a medical savings account is established. The term  
31 includes a self-employed individual.

32 (7) 'Employer' includes self-employed individuals.

33 (8) 'High deductible catastrophic health care coverage' or 'HDC coverage'  
34 means a health care coverage policy, certificate, contract, or other type  
35 of health care coverage that:

36 a. Requires a deductible of not less than one thousand five hundred  
37 dollars (\$1,500) for coverages for a single individual and not less  
38 than three thousand dollars (\$3,000) for coverages for a single  
39 individual and one or more dependents, and

40 b. That provides for payments for covered health care benefits that  
41 exceed the policy, certificate, or contract deductible, that is  
42 purchased by an employer for the benefit of an employee, and  
43 that meets the requirements of G.S. 58-50-161.

1           In no event shall the deductible for any coverage described in this  
2           subdivision exceed five thousand dollars (\$5,000).

3           (9) 'Medical savings account' or 'MSA' or 'Account' means an account  
4           established by an employer under a Medical Savings Account Plan to  
5           pay the eligible medical expenses of the account holder and the account  
6           holder's covered dependents.

7           (10) 'Medical Savings Account Plan' or 'Plan' means a health care coverage  
8           plan that is comprised of HDC coverage and a medical savings account  
9           established to receive and disburse funds contributed by the account  
10           holder or the account holder's employer, or both, to pay for eligible  
11           medical expenses of the account holder and the account holder's covered  
12           dependents.

13 **"§ 58-50-161. Medical Savings Account Plan authorized; coverage requirements;**  
14 **account contributions; enrollment requirements; distribution upon death**  
15 **of account holder.**

16           (a) Authorization. – Effective January 1, 1998, an employer may offer to its  
17 employees health care coverage in the form of a Medical Savings Account Plan. In order  
18 to qualify for the tax treatment authorized under G.S. 105-130.5 and G.S. 105-134.6, the  
19 Plan shall include both:

20           (1) High deductible catastrophic health care coverage that meets the  
21           requirements of this Act, and

22           (2) A medical savings account established in accordance with this Act.

23           An employer that establishes a Medical Savings Account Plan shall, before making  
24 any contribution to an MSA under the Plan, inform the employee in writing of the federal  
25 and State tax status of contributions made by the employer and the employee to the MSA  
26 under this Act. Employers shall also offer to assist employees in determining the most  
27 appropriate health care coverage option among those offered by the employer, and how to  
28 use a Medical Savings Account Plan if that option is chosen by the employee.

29           An employer who offers an MSA Plan shall provide for each account holder a funds  
30 verification card that when presented by the employee to a health care provider will  
31 enable the health care provider to ascertain the status of the employee's coverage under  
32 the Plan.

33           (b) Coverage Requirements. – HDC coverage shall qualify as part of a Medical  
34 Savings Account Plan if the coverage:

35           (1) Is a policy, certificate, contract, or other type of health care coverage  
36           purchased by the employer for an employee. The coverage may include  
37           the employee's eligible dependents; and

38           (2) Provides for the payment of covered medical expenses that exceed the  
39           deductible, copayments, or coinsurance required under the policy,  
40           certificate, contract, or other type of health care coverage.

41           Except as otherwise required by State or federal law, the extent of coverage of the  
42 services required under this subsection, and any other services that may be covered under  
43 the HDC coverage are within the discretion of the employer.

1 (c) Enrollment Requirements. – An employer who offers an MSA Plan may not  
2 establish different enrollment period requirements for employees covered under the MSA  
3 Plan than for employees covered under other health benefit plans offered by the  
4 employer. An employee and covered dependents who change health benefit plans  
5 offered by the same employer shall receive credit for any preexisting condition waiting  
6 period, or portion thereof, satisfied under the prior plan, provided that fewer than 60 days  
7 have elapsed between participation in the prior plan and enrollment in the new plan. If  
8 the eligible dependents of an employee are covered under a basic or standard plan  
9 covering the employee, then the employee's dependents must also be covered under an  
10 MSA Plan covering the employee.

11 (d) Account Contributions. – If an employer makes contributions to a medical  
12 savings account program on a periodic installment basis, the employer may advance to an  
13 employee, interest free, an amount necessary to cover medical expenses incurred that  
14 exceed the amount in the employee's medical care savings account when the expense is  
15 incurred, if the employee agrees to repay the advance from future installments, or when  
16 the employee ceases to be an employee of the employer.

17 (e) Distribution of Account Funds Upon Death of Account Holder. – Upon the  
18 death of the account holder, all funds in the MSA shall be distributed to the decedent's  
19 estate.

20 **"§ 58-50-162. Uses of funds in medical savings account.**

21 (a) Funds that accumulate in a medical savings account as a result of contributions  
22 to the account or as a result of interest or dividends earned on funds in the account may  
23 be used to pay for eligible medical expenses and long-term care services or long-term  
24 care insurance premiums for the employee and covered dependents. Account funds may  
25 also be used to pay for the continuation of health care coverage through payment of  
26 premiums for the coverage during periods of unemployment or of transition from one  
27 medical savings account plan to another. Funds that are unexpended from an MSA may  
28 accumulate from year to year and shall remain exempt from taxation as long as the funds  
29 remain in the MSA or are used to pay for eligible expenses.

30 (b) Funds held in an MSA are the property of the account holder and may be  
31 withdrawn for any reason. Account funds withdrawn for any purpose other than those  
32 authorized under subsection (a) of this section shall be subject to taxation in accordance  
33 with G.S. 105-134.6 and a penalty. The penalty is ten percent (10%) of the amount  
34 withdrawn.

35 (c) If an account holder's employment is terminated by the employee or employer,  
36 the account holder may do the following without subjecting the funds to taxation or  
37 penalty:

38 (1) Use the funds in the account holder's MSA to:

39 a. Continue to pay premiums of the Plan established by the former  
40 employer for the account holder.

41 b. Purchase a health benefit plan for the account holder's  
42 dependents, or

43 c. Pay for any other eligible expense; or

1           (2) Deposit funds from the MSA established by the former employer into a  
2           new MSA established by the account holder's new employer.

3 "58-50-163. Account administration.

4       (a) MSAs shall be administered by an account administrator selected by the  
5 employer. The employer may change the account administrator at any time. Account  
6 funds shall be deposited in an insured account in a financial institution, in trust, in the  
7 account administrator's name as trustee for the benefit of the account holder. The account  
8 administrator may establish an individual trust fund for each account holder or one or  
9 more common trust funds for some or all of the medical savings accounts administrated  
10 by the administrator. Funds in an MSA shall not be commingled with any other property  
11 except in a common trust fund. The account administrator shall keep accounting records  
12 for each account holder showing the amounts deposited and interest, dividends, increases,  
13 and accretions earned. All interest, dividends, increases, or accretions earned by the  
14 funds shall remain with the principal.

15       (b) The account administrator may disburse funds held in an MSA only for the  
16 following purposes:

17           (1) To pay the eligible medical expenses, long-term care services, or long-  
18 term care insurance premiums of the account holder or the account  
19 holder's covered dependents;

20           (2) To pay for the continuation of health care coverage through payment of  
21 premiums for the coverage during periods of unemployment or of  
22 transition from one medical savings account plan to another;

23           (3) To purchase a health coverage policy, certificate, contract, or other  
24 health care coverage if the account holder does not otherwise have  
25 health insurance coverage;

26           (4) To reimburse the account holder for eligible medical expenses of the  
27 account holder or covered dependents that were paid by the account  
28 holder; and

29           (5) For any purpose in accordance with subsection (c) of this section.

30       (c) The account holder may direct the account administrator to withdraw and pay  
31 to the account holder funds in the MSA for any purpose other than those authorized under  
32 G.S. 58-50-162(a), provided that withdrawals for noneligible purposes may not be made  
33 more frequently than once per calendar quarter. Funds withdrawn pursuant to this  
34 subsection are subject to tax as provided under G.S.105-134.6 and penalty as provided  
35 under G.S. 58-50-162. Penalties shall be collected by the account administrator and  
36 remitted within 30 days to the Commissioner for deposit to the General Fund.

37 **"§ 58-50-164. Commissioner to adopt rules.**

38       The Commissioner of Insurance may adopt rules to implement this act."

39       Sec. 2. Effective January 1, 1998, G.S. 58-67-35 is amended by adding the  
40 following new subsection to read:

41       "(c) Notwithstanding G.S. 58-67-5, an HMO may develop a plan, subject to the  
42 approval of the Commissioner, that will permit participation by the HMO in a Medical  
43 Savings Account Plan as defined under G.S. 58-50-160."

1 Sec. 3. G.S. 105-134.6(d) is amended by adding a new subdivision to read:

2 "(4) Medical savings accounts. – As used in this subdivision, the term  
3 'medical savings account' has the meaning provided in G.S. 58-50-160.  
4 No deduction is allowed under this subdivision with respect to a  
5 medical savings account that is not in compliance with the provisions of  
6 the Medical Savings Account Act, G.S. 58-50-158 through G.S. 58-50-  
7 164.

8 To the extent it is included in taxable income, a taxpayer may deduct  
9 (i) a contribution to the taxpayer's or the taxpayer's employee's medical  
10 savings account during the taxable year and (ii) interest and dividends  
11 earned on the taxpayer's medical savings account during the taxable  
12 year. If a taxpayer withdraws funds from the taxpayer's medical savings  
13 account during the taxable year, other than for a purpose authorized by  
14 G.S. 58-50-162(a), the taxpayer shall add the amount withdrawn to  
15 taxable income to the extent it is not included in taxable income."

16 Sec. 4. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

17 "(17) To the extent they are included in federal taxable income, the  
18 taxpayer's contributions to the taxpayers' employees' medical savings  
19 accounts made during the taxable year in accordance with the  
20 Medical Savings Account Act, G.S. 58-50-158 through G.S. 58-50-  
21 164."

22 Sec. 5. Effective January 1, 1998, G.S. 143-622(21) reads as rewritten:

23 "(21) 'Qualified health care plans' means the basic or standard health care  
24 plans offered by an Accountable Health Carrier to member small  
25 employers and as authorized by the Small Employer Carrier Committee  
26 pursuant to ~~G.S. 58-50-120~~ G.S. 58-50-120, a catastrophic health care  
27 plan, and one additional plan. This additional plan shall be strictly  
28 limited to medical benefits and shall not be instituted with any elements  
29 of dental benefits. For the purposes of this section, "medical" does not  
30 include any elements of life, property and casualty, or workers'  
31 compensation benefits."

32 Sec. 6. Effective January 1, 1998, G.S. 143-626(2) reads as rewritten:

33 "(2) Accept applications by carriers to qualify as Accountable Health  
34 Carriers, determine the eligibility of carriers to become Accountable  
35 Health Carriers according to criteria described in G.S. 143-629,  
36 designate carriers as Accountable Health Carriers, and approve one  
37 additional qualified health care plan to be offered to small employers  
38 beyond the ~~basic and standard health care plans.~~ basic, standard, and  
39 catastrophic health care plans."

40 Sec. 7. Sections 3 and 4 of this act are effective for taxable years beginning on  
41 or after January 1, 1998. The remainder of this act is effective upon ratification.