

## Compliance Corner: Congress Improves HSA Rules for 2007

*By John Hickman and Ashley Gillihan*

On Saturday, December 9, 2006, Congress passed H.R. 6111 (the "Act"), which includes, among other things, various improvements to Health Savings Account ("HSA") rules. The Act's HSA related provisions are mostly effective January 1, 2007. The Act improves existing HSA related rules in the following ways:

- Eliminates the "lesser of" deductible and statutory limit contribution rule by allowing HSA contributions up to the full statutory maximum (based on single or family coverage) without regard to the individual's HDHP deductible amount.
- Allows full-year contributions for individuals who enroll in an HDHP mid-year, provided certain conditions are satisfied.
- Allows a one time tax free rollover of Health FSA and/or HRA amounts (a "Qualified HSA Distribution") to an HSA, provided certain conditions are satisfied (this provision is effective upon enactment but expires January 1, 2012).
- Allows a one time tax free trustee-to-trustee transfer of IRA funds to an HSA

## Federal Agencies Finalize Rules on Health Nondiscrimination

*Managed Care Weekly Digest*

The U. S. Department of Labor's Employee Benefits Security Administration (EBSA), Internal Revenue Service and Department of Health and Human Services announced the publication of final rules that provide guidance in complying with the nondiscrimination provisions of the Health Insurance Portability and Accountability Act (HIPAA). The final rules also provide guidance on the implementation of wellness programs.

HIPAA's nondiscrimination provisions generally prohibit a group health plan or group health insurance issuer from denying an individual eligibility for benefits based on a health factor and from charging an individual a higher premium than a similarly situated individual based on a health factor. Health factors include: health status, medical condition (including both physical and mental illnesses), claims experience, receipt of healthcare, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence) and disability.

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- (a “Qualified HSA Funding Distribution”), provided certain conditions are satisfied.
- Eliminates the negative impact of a Health FSA grace period on HSA eligibility for a Health FSA participant that has a zero balance on the last day of the plan year or who transfers the entire balance by way of a Qualified HSA Distribution on or before the last day of the year.
  - Requires Treasury to publish cost of living adjustments (COLA) for HSAs no later than June 1 of the preceding year.
  - Allows the employer to contribute greater contributions for non-highly compensated employees without violating the HSA comparability rule.

The Act’s HSA provisions are generally good news for HSA accountholders, HSA custodian/trustees, HSA administrators and employer/plan sponsors, but there are nuances of the Act that remain to be addressed. For example, will a rollover from an FSA/HRA affect ERISA applicability of the HSA? Moreover, will a decision by a participant to make a mid-year Qualified HSA Distribution from a Health FSA violate the Code Section 125 election change rules? Both Treasury and the Department of Labor may have to chip in additional guidance to shore up some loose ends.

All interested parties should quickly become familiar with the new rules. The rapidly approaching effective date will require

employers, HSA custodians and administrators to quickly communicate the changes to HSA accountholders. For example, quick communications to Health FSA participants regarding the need to spend down or transfer an FSA account balance by plan year end is imperative to ensure that participants in a Health FSA with a grace period are eligible for an HSA at the beginning of the year as opposed to the first month following the end of the grace period. Also, trustees and custodians will need to act quickly to accommodate the many provisions under the Act, such as coordinating trustee-to-trustee transfers from IRAs. 🚫

[Click here for a more detailed overview of the Act’s HSA provisions.](#)

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## Consumer-Driven Health Plan Design Drives Success

### *Managed Care Weekly Digest*

The design of consumer driven health plans (CDHP) is what drives their success, Karen Atwood, Blue Cross and Blue Shield of Illinois' senior vice president for National Accounts, said recently in response to the EBRI/CF "Consumerism in Health" survey.

Atwood participated in a panel of national experts EBRI/CF invited to Washington, D.C., to provide commentary.

"Through the survey, EBRI and CF have given the industry valuable insight into consumers' views on CDHPs," Atwood said.

Blue Cross and Blue Shield of Illinois is a division of Health Care Service Corporation, a Mutual Legal Reserve Company (HCSC), which also operates the Blue Cross and Blue Shield of New Mexico, Oklahoma and Texas Plans. Across these Plans, the number of members in CDHPs grew from 12,000 in 2004 when they were launched, to 275,000 in 2006. According to Atwood, 45% of members who are offered both CDHPs and more traditional preferred provider organization (PPO) plans choose CDHPs.

"The goal of consumer-driven health is to get people to think about how they access services,

not to discourage access. Some 30% of the Plans' BlueEdge Health Savings Account members access their wellness benefits, which is comparable to the rate among the Plans' PPO customers," Atwood said. "Strong CDHP programs include medical management and wellness programs to ensure that people receive the care they need."

To these ends, the Plans' standard CDHP programs include first-dollar coverage for qualifying preventive services and often include the same broad networks of contracting hospitals, physicians and other providers offered to PPO and health maintenance organization (HMO) members. These standard CDHP programs also incorporate the Blue Care Connection medical management program.

Atwood explained that in addition to offering account-based plans, the keys to success include providing a simple and easy-to-use product with effective customer service, which can help members navigate their healthcare benefits and services. She also said consumer-driven plans should offer significant network choices, incentives that reward members for

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accessing medical care when they need it and saving at other times, and information and tools that can help members better understand the choices available to them.

"The industry's knowledge and understanding of consumer-driven health continues to grow. The more we know, the more we can encourage our members to become more active in their healthcare decisions and be better informed about the cost and quality of care they receive," Atwood noted. "Our experience in the market, along with information from surveys like the EBRI/CF's, will help us develop new ways to address healthcare affordability and value from both the demand and supply side."

*Blue Cross and Blue Shield of Illinois, a division of Health Care Service Corporation, a Mutual Legal Reserve Company (HCSC), is the largest health insurance company in Illinois.*


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## Federal Agencies Finalize Rules on Health Nondiscrimination

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EBSA also issued updated frequently asked questions at [www.dol.gov/ebsa](http://www.dol.gov/ebsa) on HIPAA's nondiscrimination requirements to assist the employee benefit community in complying with the new rules.

The final rules were published in the Federal Register. The rules will be effective on the first day of the plan year beginning on or after July 1, 2007. For calendar year plans, the new rules generally apply beginning Jan. 1, 2008. 

*This article was prepared by Managed Care Weekly Digest editors from staff and other reports*

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## Low Corporate Contributions to Health Savings Accounts Threaten Consumer-Driven Health Model

### PR Newswire

Vimo.com, the Internet's leading comparison-shopping site for healthcare, released a research report today that assesses the health of the nation's Health Savings Accounts (HSAs). The report reveals a significant gap between the number of people enrolled in high deductible health plans and the number of people that hold a Health Savings Account. The report also shows that funds on deposit in the average HSA are roughly half of what is required to cover the typical health plan deductible for these consumers. Both findings hint at disturbing trends that may jeopardize the "Consumer-Driven Health" movement.

This newest report from the Vimo Research Group is free, and available for immediate download at [www.vimo.com/reports/hsafunding.pdf](http://www.vimo.com/reports/hsafunding.pdf).

"HSA market penetration and funding levels are considered by many to be key indicators of the progress of the consumer directed healthcare movement," says Tom Cochrane, CFA and Vimo's Vice President of Partner Relations. "Unfortunately, the Vimo report shows that fewer than one out of every three consumers eligible to open an HSA has done so -- a shocking statistic because the accounts are such clear winners for consumers and financial planning experts agree that those eligible to open HSAs should do so immediately. HSAs are triple tax-advantaged, and funds in HSAs can

even be used to save for retirement."

The Vimo Report also states that while normal spending on medical expenses can explain away some of the low HSA balances observed, the low average balance nationwide would seem to point towards a general trend of low (or no) HSA contributions from employers -- behavior which could stunt the nascent CDH movement.

"The Consumer Driven Healthcare movement represents a golden opportunity for consumers to assert substantially increased levels of control over their healthcare," continues Cochrane. "But as employers switch over to high-deductible health plans and the health savings accounts that accompany them, consumers should be especially aware of any resulting changes to their total compensation. If a company makes the switch, but doesn't fund or under funds an employee's HSA, this can represent a windfall for the company -- but also a dramatic reduction in total compensation for the employee."

*Vimo's research team gathered data from published materials, phone interviews and the Internet. While the Vimo Web site presents a broad range of comparative information on*

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## Low Corporate Contributions to Health Savings Accounts Threaten Consumer-Driven Health Model

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*HSA companies and products, this new report focuses on enrollment in and funding of the accounts themselves.*

*Vimo collates and publishes a free, comprehensive list of HSA offerings and custodians from across the United States at <http://www.vimo.com/hsa> . HSA custodians wishing to post new or updated product information for consumers can do so by filling out a simple form and sending it back to Vimo. HSA custodians can access the form at <http://www.vimo.com/hsa/HSATemplate.xls>.*

### *About Vimo*

*Founded by industry veterans from WebMD and Valicert, Vimo believes consumers deserve more power in the healthcare equation. Vimo makes buying healthcare and insurance easier, cheaper and much more transparent. Vimo is the only Internet destination where users can gain objective, authoritative, and comprehensive shopping-comparison data about insurance, Health Savings Accounts (HSAs), medical procedures, doctors and dentists. Insurance brokers interested in partnering with Vimo can visit <http://www.vimo.com/brokercenter> . For other partnership opportunities, e-mail [partners@vimo.com](mailto:partners@vimo.com), call Vimo at 650-230-0065 or visit <http://www.vimo.com> .*

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