American Bankers Association
HSA Council

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The Honorable Stephanie Carlton
Administrator (Acting)
Centers for Medicare and Medicaid Services
7500 Security Boulevard, Baltimore, MD 21244

Dear Acting Administrator Carlton,

The Health Savings Account Council applauds the Trump administration's support for expanding the uses of Health Savings Accounts (HSAs) and the great work completed in President Trump's first term. We are pleased to see that support continue through the words of HHS Secretary Kennedy.

> *"There are all kinds of exciting things we could be doing including health savings accounts . . ."*
>
> *-- Robert F. Kennedy, Jr., Senate confirmation hearing, January 29, 2025*

HSAs were created in the federal Internal Revenue Code, and we will work with Treasury Secretary Bessent to build on President Trump's legacy expanding pre-deductible coverage for chronic disease prevention and other key improvements to Make Americans Healthy Again. Unfortunately, there are also three policy challenges within the regulatory authority of the Centers for Medicare & Medicaid Services (CMS) that are limiting the growth of HSAs:

1. Medicare Part A
2. Medicare Part D
3. CMS regulation of state health insurance marketplaces

Below is a summary of how the past policies of CMS are limiting the growth of HSAs. We welcome the opportunity to work with you to address these limitations and outline our specific requests below.

Medicare Part A

Americans with HSAs must stop contributing to their HSAs and are prohibited from receiving employer contributions to their HSAs when they enroll in Medicare. Most Americans enroll in Medicare when they turn age 65. Those that begin taking Social Security benefits before age 65 are automatically enrolled in Medicare Part A when they turn 65. Seniors have no choice in the matter – they cannot decline enrollment in Medicare Part A unless they also delay taking Social Security. This disadvantages lower income seniors that need to take Social Security early. Additionally, individuals who delay taking Social Security past age 65 are retroactively enrolled

in Medicare Part A six months prior to the date they apply for Social Security benefits. These policies are the result of a Social Security Program Operations Manual System (POMS) that have been in effect since the Clinton Administration.

Request: We respectfully request that CMS work with the Commissioner of Social Security, as directed in section 11 of President Trump's Executive Order dated October 3, 2019[1], to revise current rules and policies to de-link Medicare Part A benefits from Social Security enrollment for Americans covered by HSA-qualified health insurance plans. Creating this flexibility will preserve the Social Security retirement insurance benefits of seniors who choose not to receive benefits under Medicare Part A, and it will allow millions of seniors to collect their Social Security benefits without cancelling their ability to contribute to their HSAs. We would be happy to share specific edits to the POMS manual that would enable this new flexibility.

Medicare Part D

When Medicare Part D (prescription drug coverage) was created by Congress in 2003, a provision was added which was intended to discourage employers from dropping prescription drug coverage for older workers and "dumping" them on the newly created coverage under Medicare Part D. Employers were essentially forced to provide coverage that was equivalent in generosity to that provided by Medicare Part D or their employees would face penalties once they enrolled in Medicare Part D. The provision worked as intended and the vast majority of employers continued to provide prescription drug coverage to older workers.

Now more than 20 years later, and especially in light of recent changes to Medicare Part D enacted as part of the Inflation Reduction Act, CMS policies for determining whether employers' prescription drug coverage is "equivalent in generosity" to Medicare Part D are making it harder for employers to continue to offer HSA-qualified plans to their employees without those employees later incurring Medicare Part D penalties. Employers generally have to provide the same coverage to all workers – seniors and younger workers alike. But if the prescription drug coverage they provide is not "equivalent in generosity" for Medicare Part D, working seniors will face a premium increase of 1% per month for every month that they did not have prescription drug coverage equivalent to Medicare Part D when they ultimately enroll in Medicare Part D (i.e., a 24% higher premium over two years).

Request: We respectfully request that you revise current rules and policies to make the Medicare Part D "equivalence" test more flexible for employers so they can continue to offer HSAs to their entire workforce, without subjecting Medicare-eligible employees to Medicare Part D "late enrollment" penalties. We specifically recommend that CMS specify cost-sharing structures that would deem employer plans as being "equivalent in generosity" to Medicare Part D, and that employers' contributions to employees' HSAs be counted in any "equivalence" determination.

[1] https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-protecting-improving-medicare-nations-seniors/

CMS Regulation of State Health Insurance Marketplaces

Under the Affordable Care Act, the CMS Center for Consumer Information and Insurance Oversight (CCIIO) oversees the implementation of the provisions related to private health insurance through state-based health insurance "marketplaces." However, in recent years, CCIIO has begun limiting the types of health insurance plans that can be offered in these marketplaces to "standardized plan designs" developed by CCIIO. Health insurers that want to offer health insurance policies in these marketplaces must offer plans meeting the specific requirements of the standardized plan designs.

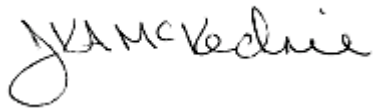
However, none of these standardized plan designs are compatible with HSAs.

Health insurers may offer HSA plans, but they are limited to offering only two additional plans that are not standardized plan designs. Thus, HSA-qualified plans have to compete for "limited shelf space" on the menu of health plan options. The result has been that enrollment in HSA-compatible plans has dropped from a high of 11% of enrollment to only 3% over the past decade.

Request: We respectfully request that you revise current rules and policies to allow health insurers to offer more HSA-compatible plans and take other actions to promote HSA-qualified plans in the state health insurance marketplaces.

Thank you for your kind attention to these matters.

Sincerely,



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