

# HSA Guide



This guide is intended as a resource for customers and potential customers of Northgate Benefits. Most of the information contained within has been gleaned from the US Treasury website. The information contained within is reliable as of October 2006 but please consult with your benefits specialist before undertaking any steps to implement a HSA program as the rules, regulations, and contribution limits are subject to change.

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# HSA Principles

1. You must have an HSA qualified high deductible health plan to open or contribute to a Health Savings Account in your own name.
2. Switching to a high deductible health plan from a traditional low deductible health plan will cut the cost of your health plan substantially. You deposit the savings gained into your Health Savings Account. The whole point of a health savings account is to allow you to use that money on a tax-free basis to pay for your health expenses below your new, higher deductible.
3. The money in your Health Savings Account is your own. This means your employer cannot tell you what to do with your own money or restrict what you can spend it on. Since it is your money, it goes with you when you change jobs.
4. You are in charge of your Health Savings Account funds, making you and your doctor the decision makers, not some third-party. Spending your own money also means that you will/should ask about the cost of health care expenditures, which will bring marketplace competition to the world of health care.
5. There is no time limit for when you can reimburse yourself for your health care expenses; you just need to keep legible receipts and records in case you do reimburse yourself, or in case you are audited.
6. You decide whether to spend from the account for your medical expenses and how much to spend, or whether to spend out-of-pocket and to save the HSA money for the future.
7. Anyone can contribute to another person's Health Savings Account. The tax benefit from such a contribution is gained by the person receiving the contribution, not to the person giving the contribution.
8. You decide which company will hold the account, and what type of investments you make with your account. Any investment allowed for IRAs is allowed for HSAs (please see Table A).
9. IRS Publication 502 provides a list of allowable expenditures from your Health Savings Account. (Please see Table D and E of this document for a partial and summary list of allowable (tax-free) and non allowable (not tax-free) expenditures from your HSA.)

# Health Savings Account Eligibility

1. You must have an HSA qualified high deductible health insurance plan.
2. A HSA qualified high deductible health plan has the following characteristics:
  - i) a minimum deductible\* of \$1,050 for self-only coverage (2006);
  - ii) a minimum deductible\* of \$2,100 for family coverage (2006);
  - iii) a maximum out-of-pocket limit\* (including deductibles and co-pays) of \$5,250 for self-only coverage, and \$10,500 for family coverage (2006);
  - iv) preventive care can have first dollar coverage;
  - v) prescription drugs taken to prevent the onset of a condition for which a person has developed risk factors for can be considered preventive care, like cholesterol-lowering medication;
  - vi) preventive care examples include: periodic health evaluations like annual physicals, screening services like mammograms, routine prenatal and well-child care, child and adult immunizations, tobacco cessation programs, and obesity weight loss programs;
  - vii) As a general rule of thumb, if you are treating an existing illness or condition with either a drug or procedure, that drug or procedure is not considered to be preventive care (because the condition already exists, and therefore you cannot be preventing it.) If you are trying to prevent an illness or condition from occurring by taking a drug or with a procedure, that is considered to be preventive. Some drugs, like cholesterol lowering ones, can be both preventive and non-preventive under HSA Rules, depending on your own health situation;
  - viii) co-pays are allowed to apply to preventive care;
  - ix) higher out-of-pocket (co-pays and co-insurance) is allowed for out-of-network care;
  - x) until January 1, 2006, you can have an HSA qualified plan that pays for prescription drugs below the deductible, as long as the prescription drug benefit is a separate plan or rider;
  - and,
  - xi) after January 1, 2006, prescription drug coverage before the deductible is met is not allowed.
3. You cannot be covered by any other health insurance that reimburses you for health expenses you incur, unless it is another HSA qualified high deductible health plan. For example, if a family has all members covered under two HSA qualified high deductible health plans, or some family members on one plan and the other family members under another HSA qualified high deductible health plan, the maximum annual contribution to the account remains in force. Just because you have coverage under two HSA qualified high deductible health plans, you cannot double your HSA contribution. It remains at a maximum of \$5,450\* for a family (2006) regardless of whether or not you are covered by one or two HSA qualified high deductible health plans.

4. For those covered by two HSA qualified high deductible health plans, it is a violation of the coordination of benefit rules to be paid by each plan for the same expense.
5. Flexible Spending Accounts (FSAs) and Health Reimbursement Arrangements (HRAs) may make you ineligible for an HSA unless they are: (1) "limited purpose" (limited to dental, vision, child care, or preventive care) or (2) "post-deductible" (pay for medical expenses after the plan deductible is met). HRAs that set aside money only for retiree health expenses are also acceptable.
6. An employer can restrict the type of expenditures an employee can make from their FSA during the new two and a half month grace period that some employers may grant to employees, for relief from the FSA "use-it-or-lose-it" rule. If an employer restricts the FSA expenditures to non-health items (such as is the case with a limited-purpose FSA) during this grace period, then such employee is eligible for HSA, provided they have the proper high deductible health plan.
7. If you are enrolled in Medicare or Medicaid, you cannot have an HSA.
8. Tricare does not currently offer an HSA qualified high deductible health plan. Therefore, if you are on Tricare, you cannot have an HSA. Once Tricare offers an HSA qualified high deductible health plan, and you select it, you can have an HSA.
9. If you have received any Veterans Administration health benefits in the last three months, you cannot have an HSA.
10. If you are Medicare eligible, and you are not enrolled in Medicare, you can open or contribute to an HSA, if you have an HSA qualified health insurance plan. [Please see the note below Table B.]
11. You cannot establish separate HSA accounts for your minor dependent children.
12. You do not have to have earned income from employment to have an HSA.
13. There are no income limits to have an HSA.
14. You do not have to itemize your deductions on your federal income taxes to deduct your contributions to an HSA.
15. State mandates for first dollar coverage that adversely impact HSA qualified high deductible health plan design are allowed until January 1, 2006, in order to give certain states time to make changes to their own state laws before that date. The two states with mandates that prevent any qualified HSA health plan from

being sold to individuals or to small groups as of 1/1/06 are New York and New Jersey.

\*NOTE: These amounts are indexed annually for inflation.

# Health Savings Acct Deposit Rules

1. You must have an HSA qualified high deductible health plan to open or contribute to an HSA.
2. If you no longer have HSA qualified high deductible health plan, you cannot contribute to your Health Savings Account, but you can continue to spend or save the funds already deposited, as you see fit.
3. Your annual HSA deposit can never exceed your insurance plan's deductible, unless you are 55 or older and are making "catch up" contributions.
4. The higher your deductible, the more you can deposit into your HSA. However, the maximum amount you can contribute per year is \$5,450\* for family coverage (2006) and \$2,700\* for self-only (2006), excluding catch up contributions for those 55 years and older.
5. Individuals 55 and older can make additional catch-up contributions until they enroll in Medicare. For a schedule of the increasing catch up deposit amounts allowed, please see Table B.
6. Catch up contributions are not pro-rated, unless you did not have HSA qualified high deductible health plan coverage for the entire year.
7. If you are covered by your HSA qualified high deductible health plan for the entire year, you may deposit the entire catch-up amount starting with the year you turn 55.
8. In the year you enroll in Medicare, you must pro-rate your catch-up contribution for the number of months you had HSA qualified high deductible health plan coverage, prior to the month your Medicare enrollment is effective.
9. If you have a family plan with a per-person deductible below the overall family deductible, you can deposit into the account the maximum allowed, if you have enough people in the family so that the sum of their per-person deductibles exceeds the maximum allowable family deposit. However, you cannot deposit more into the HSA than the overall or total family deductible. For example, a family of two with a \$2,000 per person deductible, and an overall deductible, or total family deductible of \$5,000, can only deposit \$4,000 into the HSA. If a family of three has a \$2,000 per-person deductible, and a \$5,000 overall or total family deductible, then the maximum deposit to the HSA is \$5,000.
10. Trustees and custodians may open an account with a nominal deposit before the HSA qualified high deductible health plan is in effect. For example, if an

individual's or an employer's HSA qualified high deductible health plan becomes effective January 1 – the trustee or custodian could open the account with a nominal deposit, say \$1, in December of the preceding year. The account will not officially be established as an HSA until the first day of the first full month the health plan is in effect. In this example, that date is January 1. The trustee does not report this account as an HSA until the health insurance is in effect, and the account is, in fact, an HSA.

11. A trustee or custodian can use the date the account application was signed as the start date for the Health Savings Account provided, as of that date, the high deductible health plan is in effect.

12. There is no tax code rule preventing a custodian, trustee, HSA administrator or insurer from making your Health Saving Account effective date back to the date you are first eligible (i.e., the first day of the first full month the HSA high deductible health plan is in effect). This is the date from which the maximum allowable contribution is calculated, and is the date when allowable withdrawals can begin.

13. You can “front load” or fully fund your HSA account on day one of your health savings account being in effect, provided you do not exceed the annual maximum amount (or the pro-rated amount if your account is open on a date other than January 1st.) You can make the deposit anytime after your HSA is open. If you lose your high deductible health plan later in the year, you will have to withdraw some of the contribution from the account.

14. If your high deductible coverage is effective after January 1st, then the total contributions to the account must be pro-rated based on the number of full months your qualified high deductible insurance is in effect. Count only those months for which your high deductible coverage is in effect on the first day of the month. For example, if your high deductible coverage starts on January 3, the maximum number of months for which you can make a contribution to your HSA is 11.

15. You can deposit funds into your HSA in a lump sum or in any amounts or frequency you wish. However, your account trustee/custodian can impose minimum deposit and balance requirements.

16. Deposits to an HSA must be made in cash. Funds in an IRA, 401(k), or other retirement/pension account cannot be directly deposited or “rolled over” into an HSA. But you can take a distribution from one of these accounts, pay applicable taxes (and penalties if withdrawn early) and use the remaining funds to make deposits into your HSA.

17. Rollovers from an Archer Medical Savings Account into a Health Savings Account are allowed if completed within 60 days of withdrawing the funds from your Archer Medical Savings Account.

18. The term “rollover” has several meanings. Rollover of HSA funds from year to year of unspent balances is well understood. However, IRA and HSA rollovers has another meaning to the IRS: you are allowed to take any amount of your HSA funds out of your account out once a year, and there is no limitation on what those funds can be spent on. If the funds are returned to the HSA within 60 days, there is no tax or penalty. However, if those funds are not returned to the HSA within 60 days, then you must pay the taxes due on those funds, and the 10% penalty. Unofficially, this “rollover” rule is known as the “playing with fire” rule.

19. Unlimited HSA trustee to HSA trustee transfers are allowed, meaning, you can move your HSA account any number of times you want in a given year.

20. If you have contributed an amount into your HSA which exceeds your maximum allowable deposit, you may withdraw the excess amount and any earnings on the excess amount prior to April 15th of the following year. However, you must pay income tax on your excess contributions and income tax on any earnings of the excess contribution. There is no 10% penalty on excess contributions.

21. If you do not withdraw the excess contribution to your HSA prior to April 15th of the following year, you must pay a 6% excise tax on the excess contribution, and on any earnings of the excess contribution. If in the next year you decreased your maximum contribution by the amount of your excess contribution made the year before, you do not have to pay the 6% excise tax again. If, however, you leave the excess contribution in, and do not decrease your maximum contribution by the amount of your excess contribution made the year before, you will have to pay the 6% excise tax each year the excess contributions and earnings are in the HSA.  
\*NOTE: These amounts are indexed annually for inflation.

# Health Savings Acct Spending Rules

1. There are a wide range of allowable tax-free HSA expenditures, including vision and dental expenses, and for example, braces for your children. A description of qualified Health Savings Account expenditures can be found in IRS Publication 502. Publication 502 has great examples, but it is not the definitive list. (Please see Table D for a partial list of allowable tax-free expenditures and Table E for non allowable expenditures.)
2. If an expenditure from your Health Savings Account is used for purposes other than a qualified health care expense as defined in IRS Publication 502, then the amount withdrawn is subject to both income tax and a 10% penalty, unless the person who makes such a withdrawal from their HSA is over the age of 65. If 65 years old or older, the amount withdrawn for non-medical purposes is treated as retirement income, and is subject to normal income tax, but is not subject to the 10% penalty.
3. Withdrawals that were made for what the HSA owner thought were qualified medical expenditures, but turned out not to be qualified medical expenditures, can be returned to the Health Savings Account if there is clear and convincing evidence that the expenditure was a mistake of fact. Such repayment to the Health Savings Account must be made on or before April 15th of the year following when the individual knew, or should have known, the expenditure was a mistake.
4. Other qualified medical expenses from a Health Savings Account include out-of-pocket expenditures while enrolled in Medicare, including Medicare premiums, deductibles, coinsurance and copays, but not Medigap premiums.
5. Everyone with a Health Savings Account must keep all their receipts showing their expenditures from their account. There are two key reasons you must do this:
  - (1) if you exceed your deductible, you may need the receipts to send to your insurer, and
  - (2) in case you are audited by the IRS, you need to explain your HSA expenditures.
6. April 15, 2006 is the last date that you can open your Health Savings Account to fund and reimburse yourself for expenses incurred in 2005 while covered by a high deductible health plan.
7. You may use funds from your Health Savings Account to reimburse for expenses from a previous year, only if you had an HSA at the time the expenses were incurred.
8. Your spouse will inherit your Health Savings Account upon your death, unless your will provides otherwise.

9. Should the Health Savings Account holder have no spouse, the funds in the account shall no longer be treated as a Health Savings Account but part of the individual's estate and will be subject to estate taxes.
10. HSA funds cannot be used to pay for health insurance premiums unless the individual is receiving federal or state unemployment benefits.
11. HSA funds can also be used to pay premiums for COBRA continuation health insurance coverage from a former employer.
12. An employer paying COBRA for an employee with an HSA does not have to continue deposits into the account. The employer does have to pay the premium for the qualified high deductible health plan.
13. HSA funds can be used to pay premiums for qualified long-term care insurance coverage, subject to the age limits in the Internal Revenue Code. (Please see Table C.)

# HSA Rules for Employers

1. The employee owns your contributions to their account as soon as the funds are deposited.
2. The employer can no more restrict the use of the funds in the employee's Health Savings Account than they can restrict the employee's funds in the employee's personal checking account.
3. Employee contributions to their Health Savings Account can be made on an after-tax basis and taken as an above-the-line deduction on their tax return (making such contributions tax-free) or the employee can make pre-tax contributions to their Health Savings Account through a Section 125 (aka "salary reduction" or "cafeteria") plan.
4. Employee contributions to their Health Savings Account through a cafeteria plan can change on a month-by-month basis. However, the employer can put reasonable limits on how often those contribution amounts can change.
5. Employer contributions to an employees Health Savings Account are always excluded from any employees' income (such contributions are made pre-tax).
6. Employers must make comparable contributions to all employees' Health Savings Accounts (unless made through a Section 125 plan).
7. Such comparable contribution to an employee's Health Savings Account means all employer contributions must be of the same amount for all family HSAs and the same amount for all single HSAs; or are the same percentage of the annual deductible.
8. Comparability rules are likely being violated if "extra contributions" to any employee's Health Savings Account are being made. For example, additional contributions to an employee's Health Savings Account being made based on the employee's seniority, length of service or giving catch up contributions to those employees 55 years and older violate the comparability rules.
9. The comparability rule can be applied separately to part-time employees. The rule can also be applied separately for employees with self-only vs. family coverage.
10. Matching contributions by an employer through a Section 125 plan are not subject to the comparability rule, but are subject to the non-discrimination rules of 125 plans.

11. The non-discrimination rule for Section 125 plans, in general, is that contributions cannot be higher for higher-paid employees than they are for lower-paid employees. Contributions that favor lower-paid employees are allowed.
12. There are no cases in which the Health Savings Account comparability rule or the 125 non-discrimination rules do not apply.
13. Without violating the comparability rule, employers may make their contribution to an employee's Health Savings Account conditional on the employee's participation in a Wellness program. However, the employer must offer an equal cash amount to all HSA eligible employees (those who have an HSA qualified high deductible health plan) who participates in the Wellness program, through a cafeteria plan.
14. For employers who do not provide their employees with health insurance but whose employee may purchase a Health Savings Account on their own, such employer may make pre-tax contributions to such employees' Health Savings Account through a Section 125 plan, as long as the offer is open to all such employees, and the contribution amount follows the Section 125 plan's non-discrimination rule.
15. For employers who do not provide their employees with health insurance but whose employees may purchase a Health Savings Account on their own, such employer may make pre-tax contributions to such employees' to reimburse their monthly health insurance premium, provided the employee brings their monthly health insurance bill to the employer each month.
16. Self-employed, partners and S-Corporation shareholders are not generally considered employees and cannot receive pre-tax employer contributions to their Health Savings Accounts. Self employed can only take an above-the-line deduction for their premium and Health Savings Account contribution.
17. Regardless of how your S-Corporation or your LLC is structured, the company cannot make pretax contributions to owners, shareholders, or partners.
18. It is prohibited to transfer the employee's balance of a Flexible Spending Account (FSA) into a Health Savings Account.
19. It is prohibited to transfer the employer's notional balance of a Health Reimbursement Account (HRA) into any Health Savings Account.
20. A limited purpose FSA or a limited purpose HRA is allowed for expenditures like dental, vision or preventive care.
21. Post deductible HRAs or post deductible FSAs are allowed to pay for expenses above the minimum HSA deductible.

22. COBRA rules apply to the high deductible health insurance plan portion of an HSA, but not to the account.

# Table A:

## Allowable Health Savings Account Investments

- Bank Accounts
- Annuities
- Certificates of Deposits
- Stocks
- Bonds
- Mutual Funds
- Certain types of Bullion or Coins - see Section 408(m)(3) of the Internal Revenue Code
- Your HSA custodian or trustee may restrict certain types of investments

## Not Allowable HSA Investments

- Collectables: including any work of art, antique, metal, gem, stamp, coin, alcoholic beverage or other personal property as described in Section 408(m)(3)
- Life Insurance Contracts

# Table B:

## Allowable “Catch Up” Contributions for Americans 55 Years and Older

2005: \$600  
2006: \$700  
2007: \$800  
2008: \$900  
2009 and after: \$1,000

Each spouse age 55 or older can contribute up to the maximum catch up amount. Catch up contributions are not pro-rated, unless you did not have HSA qualified high deductible health plan coverage for the entire year. If you had HSA qualified high deductible health plan coverage for the entire year, you can deposit the entire catch-up amount starting with the year you turn 55. If both spouses want to make catch-up contributions, each spouse must have a separate health savings account.

In the year you enroll in Medicare, you must pro-rate your catch-up contribution for the number of months you had HSA qualified high deductible health plan coverage, prior to the month your Medicare enrollment is effective. You can delay enrollment in Medicare Part A only if you delay taking Social Security. You can delay taking Social Security up until age 70 and one half years old.

Once either spouse enrolls in Medicare, that spouse can no longer contribute any funds, including catch up amounts, to their Health Savings Account. If you are not enrolled in Medicare, you can contribute to your HSA and continue to make catch-up contributions. Note: If you enroll in Social Security you will be automatically enrolled in Medicare Part A, which will disqualify you from contributing to an HSA.

# Table C:

## Allowable Expenditures on Long-Term Care Insurance from Your Health Savings Account

In order to spend money from your HSA on long-term care, your long-term care insurance contract must:

1. Be guaranteed renewable,
2. Not provide for a cash surrender value or other money that can be paid, assigned, pledged, or borrowed,
3. Provide that refunds, other than refunds on the death of the insured or complete surrender or cancellation of the contract, and dividends under the contract, must be used only to reduce future premiums or increase future benefits, and
4. Generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare, except where Medicare is a secondary payer, or the contract makes per diem or other periodic payments without regard to expenses. The amount of qualified long-term care premiums you can pay from an HSA is limited. You can include the following amounts as a qualified medical expense in 2006 (adjusted annually for inflation):

Age 40 or under - \$280.

Age 41 to 50 - \$530.

Age 51 to 60 - \$1060.

Age 61 to 70 - \$2,830.

Age 71 or over - \$3,530.

# Table D:

## Allowable (tax-free) Expenditures from Your Health Savings Account

There have been thousands of cases involving the many nuances of what constitutes “medical care” for purposes of section 213(d) of the Internal Revenue Code. A determination of whether an expense is for “medical care” is based on all the relevant facts and circumstances. To be an expense for medical care, the expense has to be primarily for the prevention or alleviation of a physical or mental defect or illness. The determination often hangs on the word “primarily.”

Note: If you are receiving federal or state unemployment insurance, you may pay for your health insurance premiums out of your HSA.

Examples of Allowable Expenditures from Your Health Savings Account:

- Acupuncture
- Alcoholism Treatment
- Ambulance
- Artificial Limb
- Artificial Teeth
- Bandages
- Birth Control Pills (by prescription)
- Breast Reconstruction Surgery (mastectomy)
- Car Special Hand Controls (for disability)
- Certain Capital Expenses (e.g., for the disabled)
- Chiropractors
- Christian Science Practitioners
- COBRA premiums
- Contact Lenses
- Cosmetic Surgery (if due to trauma or disease)
- Crutches
- Dental Treatment
- Dermatologist
- Diagnostic Devices
- Disabled Dependent Care Expenses
- Drug Addiction Treatment (inpatient)
- Drugs (prescription)
- Eyeglasses
- Fertility Enhancement
- Guide Dog
- Gynecologist

Health Institute (if prescribed by physician)  
H.M.O. (certain expenses)  
Hearing Aids  
Home Care  
Hospital Services  
Laboratory Fees  
Lasik Surgery  
Lead-Based Paint Removal  
Learning Disability Fees (prescription)  
Legal Fees (if for mental illness)  
Life-Care Fees  
Lodging (for out-patient treatment)  
Long-Term Care (medical expenses)  
Long-Term Care Insurance (up to allowable limits)  
Meals (associated with receiving treatments)  
Medical Conferences (for ill spouse/dependent)  
Medicare Deductibles  
Medicare Premiums  
Mentally Retarded (specialized homes)  
Nursing Care  
Nursing Homes  
Obstetrician  
Operating Room Costs  
Operations - Surgical  
Ophthalmologist  
Optician  
Optometrist  
Organ Transplant (including donor's expenses)  
Orthodonture  
Orthopedic Shoes  
Orthopedist  
Osteopath  
Out-of-pocket expenditures and deductibles for  
your spouse or dependent even if insured under  
a non-HSA health plan  
Out-of-pocket expenditures while enrolled in  
Medicare  
Over-the-Counter Medicines  
Oxygen and Equipment  
Pediatrician  
Personal Care Services (for chronically ill)  
Podiatrist  
Post-Nasal Treatments  
Prenatal Care  
Prescription Medicines  
Prosthesis

PSA Test  
Psychiatric Care  
Psychiatrist  
Psychoanalysis  
Psychoanalyst  
Psychologist  
Qualified Long-Term Care Services  
Radium Treatment  
Smoking Cessation Programs  
Special Education for Children (ill or disabled)  
Specialists  
Spinal Tests  
Splints  
Sterilization  
Surgeon  
Telephones and Television for the Hearing Impaired  
Therapy  
Transportation Expenses for Health Care  
Treatment  
Vaccines  
Vitamins (if prescribed)  
Weight Loss Programs  
Wheelchair  
Wig (hair loss from disease)  
X-Rays

# Table E:

## Non-Allowable (not tax-free) Expenditures from Your Health Savings Account

Examples of Non-Allowable Expenses:

Advance Payment for Future Medical Expenses  
Athletic Club Membership  
Automobile Insurance Premium  
Babysitting (for healthy children)  
Boarding School Fees  
Bottled Water  
Commuting Expenses for the Disabled  
Controlled Substances  
Cosmetics and Hygiene Products  
Dancing Lessons  
Diaper Service  
Domestic Help  
Electrolysis or Hair Removal  
Funeral Expenses  
Hair Transplant  
Health Programs at Resorts, Health Clubs, & Gyms  
Household Help  
Illegal Operations and Treatments  
Illegally Procured Drugs  
Maternity Clothes  
Medigap premiums  
Nutritional Supplements  
Premiums for Life, Disability, Other Accident Insurance  
Premiums for your HSA Qualified High Deductible Health Plan, unless you are receiving Federal or State unemployment benefits, or you are on COBRA  
Scientology Counseling  
Social Activities  
Special Feeds/Beverages  
Swimming Lessons  
Teeth Whitening  
Travel for General Health Improvement  
Tuition in a Particular School for Problem Children

# Questions and Answers

## *1. Why are there limits on the maximum deductible for a HSA qualified health insurance plan?*

Some critics of Health Savings Accounts want the limits on the maximum deductible amount removed. The maximum deductible amounts in the HSA law were picked because there are diminishing reductions in premiums at deductibles above the deductibles prescribed in the HAS legislation. Further, since the deductibles and maximum contributions are tied to the rate of inflation, these amounts will grow over time. This limitation on the maximum deductibles also attracted support from moderate Members of Congress, and we needed their votes to pass the law.

## *2. Why can't the out-of-pocket amount be tied to the maximum contribution, instead of the deductible?*

While the maximum contribution amount was originally tied to the deductible, the HSA allows for a deductible roughly double the size of the maximum contribution. Tying the maximum contribution rate to the out-of-pocket maximum is a viable policy, but the cost to the Federal government in lost taxable income made that idea politically unviable.

## *3. Why not carve out prescription drugs and allow tiered co-pays?*

Including prescription drugs as a benefit below the deductible will drive up the now affordable cost of HSA qualified health plans, and, as a result, reduce the amount of savings derived from switching to a HSA qualified health plan. This means that less money can be deposited each year into the Health Savings Account, which will diminish their appeal and reduce the ability to build up funds in an HSA.

Tiered co-pays, or any other benefit that is paid below the deductible, seriously compromises the effect of a consumer spending their own money. When you spend your own money, you spend it differently than if you are spending someone else's money. Think of going out for an all expenses paid meal, versus going to a restaurant where you are paying: you order differently.

## *4. Why aren't IRAs and 401(k)s allowed to be rolled into an HSA?*

While Health Savings Accounts have an investment component, the main purpose of an HSA is to fund health care expenditures and to put the patient in charge of those expenditures, not to have a principle role as a retirement savings vehicle.

## *5. Why can't HSA distributions be tax free upon your death?*

The revenue loss to the Federal government made the price tag for that suggestion too high.

*6. Why can't we have one joint HSA Account and still make catch up contributions?*  
There can be only one primary account holder of the HSA. Both spouses may contribute. The practical effect of this restriction is not significant.

*7. Can we use our HSA to pay for medical services provided in other countries, like Mexico and Canada?*  
Yes.

*8. If I am self-employed, can I contribute on a pre-tax basis? How about for partnerships or for S-Corporation owners who own more than 2% or for LLC owners?*

Self-employed can only take an above-the-line deduction for their premium and Health Savings Account contribution. Regardless of how your S-Corporation or LCC is structured, the only way you can structure your HSA contributions is as an above-the-line deduction. The HAS legislation simply cited current law in this regard. It was a political impossibility in the HAS legislation to make the necessary change in law to allow pre-tax contributions for LLC owners, SCorp. owners or the self-employed. For further guidance for partnerships and S-Corporations, see IRS Guidance 2005-8.

*9. What is an "above-the-line" deduction?*

An above-the-line deduction reduces your Federal taxable income dollar for dollar by the amount you contribute. You do not have to itemize to claim this deduction. For example, if you contribute \$1,000 to your HSA, you reduce your Federal taxable income by \$1,000.

*15. Why can't I pay my health insurance premiums with my HSA?*

The money in your HSA is to meet your health care expenses below your deductible, not to meet your health insurance premiums. What if people spent their entire HSA deposit on their insurance premiums, and found no funds left to meet their health care costs to meet their deductible? The only time you are allowed to pay the health insurance premium with your HAS funds is if you are collecting Federal or State unemployment benefits, or you are on COBRA.

*16. Can you provide a list of qualified medical expenses?*

See Tables D and E, for a list of allowable and non allowable medical expenses. Please also see IRS Publication 502, which can be found on the U.S. Treasury website - [www.ustreas.gov](http://www.ustreas.gov).

*17. Can I be my own trustee?*

No, the account portion of the HSA legislation cites existing IRA law. You cannot open your own IRA, can you? The same rule applies for HSAs.