

SENATE BILL No. 946

February 3, 2004, Introduced by Senators PATTERSON, BISHOP, KUIPERS, HAMMERSTROM, GEORGE, VAN WOERKOM, TOY, BIRKHOLZ, GARCIA, BROWN, HARDIMAN, ALLEN and GOSCHKA and referred to the Committee on Finance.

A bill to create the medical care savings account program; to prescribe the powers and duties of certain state agencies, boards, and departments; to provide penalties and remedies; to provide for certain tax credits; and to prescribe the requirements of and restrictions on medical care savings accounts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SENATE BILL No. 946

1 Sec. 1. This act shall be known and may be cited as the
2 "medical care savings account program act".

3 Sec. 2. As used in this act:

4 (a) "Account administrator" means any of the following:

5 (i) A state chartered bank, savings and loan association,
6 credit union, or trust company authorized to act as fiduciary and
7 under the supervision of the financial institutions bureau of the
8 department of commerce; or a national banking association or

1 federal savings and loan association or credit union authorized
2 to act as fiduciary in this state.

3 (ii) An insurance company authorized to do business in this
4 state pursuant to the insurance code of 1956, 1956 PA 218, MCL
5 500.100 to 500.8302, or a health care corporation operating
6 pursuant to the nonprofit health care corporation reform act,
7 1980 PA 350, MCL 550.1101 to 550.1704.

8 (iii) A broker-dealer, commodity issuer, or investment
9 advisor registered pursuant to the uniform securities act, 1964
10 PA 265, MCL 451.501 to 451.818, or a federal investment company
11 registered under the investment company act of 1940, 15 USC 80a-1
12 to 80a-64.

13 (iv) A third party administrator with a current certificate
14 of authority issued pursuant to the third party administrator
15 act, 1984 PA 218, MCL 550.901 to 550.960.

16 (v) A certified public accountant licensed to practice in
17 this state pursuant to article 7 of the occupational code, 1980
18 PA 299, MCL 339.701 to 339.716.

19 (vi) An employer if the employer has a self-insured health
20 plan under ERISA.

21 (vii) An employer that participates in the medical care
22 savings account program.

23 (b) "Account holder" means the resident individual who
24 establishes a medical care savings account or for whose benefit a
25 medical care savings account is established.

26 (c) "Deductible" means the total deductible for an employee
27 or account holder and all the dependents of that employee or

1 account holder for a calendar year.

2 (d) "Dependent" means the spouse of the employee or account
3 holder or a child of the employee or account holder if the child
4 is any of the following:

5 (i) Under 23 years of age and enrolled as a full-time student
6 at an accredited college or university or under 19 years of age.

7 (ii) Legally entitled to the provision of proper or necessary
8 subsistence, education, medical care, or other care necessary for
9 his or her health, guidance, or well-being and not otherwise
10 emancipated, self-supporting, married, or a member of the armed
11 forces of the United States.

12 (iii) Mentally or physically incapacitated to the extent that
13 he or she is not self-sufficient.

14 (e) "Domicile" means a place where an individual has his or
15 her true, fixed, and permanent home and principal establishment,
16 to which, whenever absent, he or she intends to return. Domicile
17 continues until another permanent home or principal establishment
18 is established.

19 (f) "Eligible medical expense" means an expense paid by the
20 taxpayer for medical care described in section 213(d) of the
21 internal revenue code.

22 (g) "Employee" means the individual for whose benefit or for
23 the benefit of whose dependents a medical care savings account is
24 established. Employee includes a self-employed individual.

25 (h) "ERISA" means the employer retirement income security act
26 of 1974, Public Law 93-406, 88 Stat. 829.

27 (i) "Higher deductible" means a deductible of not less than

1 \$1,000.00 and not more than \$3,000.00 for calendar year 2004.
2 This minimum and maximum shall be adjusted annually by the
3 department of treasury to reflect increases in the general price
4 level as defined in section 33 of article IX of the state
5 constitution of 1963.

6 (j) "Medical care savings account" or "account" means an
7 account established in this state pursuant to a medical care
8 savings account program to pay the eligible medical expenses of
9 an employee or account holder and the dependents of the employee
10 or account holder.

11 (k) "Medical care savings account program" or "program" means
12 1 of the following programs:

13 (i) A program established by an employer that previously
14 provided a health coverage policy, certificate, or contract or
15 self-insured health plan and that includes all of the following:

16 (A) The purchase by the employer of a qualified higher
17 deductible health plan for the benefit of an employee and his or
18 her dependents.

19 (B) The contribution on behalf of an employee into a medical
20 care savings account by his or her employer of all or part of the
21 premium differential realized by the employer based on the
22 purchase of a qualified higher deductible health plan for the
23 benefit of the employee but not less than \$1,000.00. The
24 employee may contribute into the account in addition to a
25 contribution by the employer all or part of the difference
26 between the employer's contribution and the maximum contribution
27 as determined pursuant to this sub-subparagraph. A contribution

1 under this sub-subparagraph shall not exceed \$3,000.00 for
2 calendar year 2004. For each calendar year after 2004, this
3 maximum shall be adjusted annually by the department of treasury
4 to reflect increases in the general price level as defined in
5 section 33 of article IX of the state constitution of 1963.

6 (ii) A program established by an employer that did not
7 previously provide a health coverage policy, certificate, or
8 contract or self-insured health plan that includes all of the
9 following:

10 (A) The purchase by an employer of a qualified higher
11 deductible health plan for the benefit of an employee and his or
12 her dependents.

13 (B) The contribution on behalf of an employee into a medical
14 care savings account by his or her employer of all or part of the
15 deductible of the plan purchased pursuant to
16 subparagraph (ii) (A). The employee may contribute into the
17 account in addition to a contribution by the employer all or part
18 of the difference between the employer's contribution and the
19 maximum contribution as determined pursuant to this
20 sub-subparagraph. A contribution under this sub-subparagraph
21 shall not exceed \$3,000.00 for calendar year 2004. For each
22 calendar year after 2004, this maximum shall be adjusted annually
23 by the department of treasury to reflect increases in the general
24 price level as defined in section 33 of article IX of the state
25 constitution of 1963.

26 (iii) A program established by an account holder that
27 includes all of the following:

1 (A) The purchase by the account holder of a qualified higher
2 deductible health plan for the benefit of the account holder and
3 his or her dependents.

4 (B) A contribution by the account holder not to exceed
5 \$3,000.00 for calendar year 2004 into a medical care savings
6 account. For each calendar year after 2004, this maximum shall
7 be adjusted by the department of treasury to reflect increases in
8 the general price level as defined in section 33 of article IX of
9 the state constitution of 1963.

10 (l) "Qualified higher deductible health plan" means a health
11 coverage policy, certificate, or contract or health plan that
12 provides for payments for covered benefits that exceed the higher
13 deductible and that is purchased or established by an account
14 holder or by an employer for the benefit of an account holder or
15 employee for whom the account holder or employer makes deposits
16 into a medical care savings account.

17 Sec. 3. (1) For tax years beginning after December 31, 2003,
18 both of the following apply:

19 (a) An employer, except as otherwise provided by statute,
20 contract, or a collective bargaining agreement, may offer a
21 medical care savings account program to the employer's
22 employees.

23 (b) A resident individual may establish a medical care
24 savings account program for himself or herself or for his or her
25 dependents.

26 (2) Before making any contributions, an employer that offers
27 a medical care savings account program shall inform all employees

1 in writing of the state and federal tax status of contributions
2 made pursuant to this act.

3 (3) Upon agreement between an employer and account holder, an
4 account holder may have his or her employer contribute either to
5 the account holder's medical care savings account or continue to
6 make contributions under the employer's existing health insurance
7 policy or program.

8 Sec. 4. (1) An account administrator shall administer the
9 medical care savings account from which the payment of claims is
10 made and has a fiduciary duty to the person for whose benefit the
11 account administrator administers an account.

12 (2) Not more than 30 days after an account administrator
13 begins to administer an account, the account administrator shall
14 notify in writing each employee and account holder on whose
15 behalf the account administrator administers an account of the
16 date of the last business day of the account administrator's
17 business year.

18 (3) The account administrator shall utilize the funds held in
19 a medical care savings account solely for the purpose of paying
20 the eligible medical expenses of the employee or account holder
21 or his or her dependents or to purchase a health coverage policy,
22 certificate, or contract. Funds held in a medical care savings
23 account shall not be used to pay medical expenses of the employee
24 or account holder or his or her dependents that are otherwise
25 reimbursable including but not limited to medical expenses
26 payable pursuant to an automobile insurance policy, worker's
27 compensation insurance policy or self-insured plan, or another

1 health coverage policy, certificate, or contract.

2 (4) The employee or account holder may submit documentation
3 of medical expenses paid by the employee or account holder in the
4 tax year to the account administrator, and the account
5 administrator shall reimburse the employee or account holder from
6 the employee's or account holder's account for those eligible
7 medical expenses.

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

16 Sec. 5. (1) An employee or account holder may withdraw money
17 from his or her medical care savings account for any purpose
18 other than a purpose described in section 4(3) only on the last
19 business day of the account administrator's business year.

20 (2) Subject to subsection (3), if the employee or account
21 holder withdraws money for any purpose other than a purpose
22 described in section 4(3) at any time other than the last
23 business day of the account administrator, the administrator
24 shall withhold from the amount of the withdrawal and on behalf of
25 the employee or account holder shall pay a penalty to the
26 department of treasury equal to 10% of the amount of the
27 withdrawal.

1 (3) The amount of a disbursement of any assets of a medical
2 care savings account pursuant to a filing for protection under
3 title 11 of the United States Code, 11 USC 101 to 1330 by an
4 employee, account holder, or person for whose benefit the account
5 was established is not considered a withdrawal for purposes of
6 this section.

7 (4) Upon the death of the employee or account holder, the
8 account administrator shall distribute the principal and
9 accumulated interest of the medical care savings account to the
10 estate of the employee or account holder.

11 (5) If an employee is no longer employed by an employer that
12 participates in a medical care savings account program and the
13 employee, not more than 60 days after his or her final day of
14 employment, transfers the account to a new account administrator
15 or requests in writing to the former employer's account
16 administrator that the account remain with that administrator and
17 that account administrator agrees to retain the account, the
18 money in the medical care savings account may be utilized for the
19 benefit of the employee or his or her dependents subject to this
20 act and is included for purposes of calculating the credit under
21 section 269 of the income tax act of 1967, 1967 PA 281, MCL
22 206.269. Not more than 30 days after the expiration of the 60
23 days, if an account administrator has not accepted the former
24 employee's account, the employer shall mail a check to the former
25 employee at the employee's last known address equal to the amount
26 in the account on that day. If an employee becomes employed with
27 a different employer that participates in a medical care savings

1 account program, the employee may transfer his or her medical
2 care savings account to that new employer's account
3 administrator. If an account holder becomes an employee of an
4 employer that participates in the medical care savings account
5 program, the account holder may transfer his or her account to
6 the employer's account administrator.

7 Sec. 6. This act shall not take effect unless Senate Bill
8 No. 947 of the
9 92nd Legislature is enacted into law.