



# A complete guide to HSAs

A **health savings account**, or HSA, is a tax favored IRA-type trust or custodial account that is set up with a qualified trustee (a bank, credit union, or insurance company) and is used to pay for qualified medical expenses. First available in 2004, they have become an exceedingly popular choice as employers design their benefit programs. HSAs are coupled with high deductible health plans (HDHPs) and are the cornerstone of consumer driven healthcare.

## Eligibility

Only eligible individuals can establish, and then contribute to, an HSA. There are four requirements that an individual must meet:

1. Must be covered under an HDHP on the first day of the month;
2. Cannot have disqualifying coverage;
3. Cannot be enrolled in Medicare;
4. Cannot be claimed as a dependent on someone else's tax return for the year;

## HSAs have “triple tax benefits” for participants:

1. Participants can make pre-tax contributions up to the statutory limits.
2. Interest and investments earnings on HSA accounts are tax-free
3. HSA funds can be used to pay for qualified medical expenses, tax-free for participants and their tax dependents.

HSAs are highly regulated by the Internal Revenue Service (IRS) due to their numerous tax advantages.



## Requirement 1: High-Deductible Health Plan Design

An individual must be covered by an HDHP on the first day of the month to make or receive HSA contributions.

**Definition:** An HDHP is a health plan that meets the statutory requirements for annual deductibles and out-of-pocket expenses and provides “significant-benefits.” The significant benefit requirement prevents the plan from only covering a fixed indemnity benefit, carving out hospitalizations, or only covering specified diseases.

Employers sometimes offer “embedded deductibles” for each individual enrolled in family coverage. An embedded deductible is applied to each individual, and if that individual’s costs exceed the embedded deductible, the plan can begin covering their additional expenses, before the entire family deductible is met. If a plan has embedded deductibles, the IRS requires that the individual deductible needs to be equal to or higher than the minimum family deductible, which in 2025 would be \$3,300. In 2025, a plan with an embedded individual deductible of less than \$3,300 would no longer be a qualified HDHP.

|                                |           | 2025     | 2026     | 2027     |
|--------------------------------|-----------|----------|----------|----------|
| Minimum Annual HDHP Deductible | Self-Only | \$1,650  | \$1,700  | \$1,750  |
|                                | Family    | \$3,300  | \$3,400  | \$3,500  |
| Maximum Out-of-Pocket*         | Self-Only | \$8,300  | \$8,500  | \$8,700  |
|                                | Family    | \$16,600 | \$17,000 | \$17,400 |

## Requirement 2: High-Deductible Health Plan Permissible and Disqualifying Coverage

Employees can have an HDHP and other coverage, but the other coverage can make them ineligible to pair their HDHP plan with an HSA if it is considered disqualifying coverage.

| PERMISSIBLE OTHER COVERAGE                                                                                                                                                                                                                                                                  | DISQUALIFYING COVERAGE                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dental and vision coverage                                                                                                                                                                                                                                                                  | Major medical coverage in addition to the HDHP                                                                                                                                                                      |
| Preventive care                                                                                                                                                                                                                                                                             | Medicaid                                                                                                                                                                                                            |
| Accident coverage, accidental death and disability (AD&D), disability coverage                                                                                                                                                                                                              | Medicare                                                                                                                                                                                                            |
| Fixed indemnity health insurance, i.e., insurance that pays a predetermined amount on a per-incident basis, regardless of the total changes incurred                                                                                                                                        | TRICARE                                                                                                                                                                                                             |
| Illness or disease-specific coverage (e.g., cancer insurance), so long as the HDHP provides the principal health coverage                                                                                                                                                                   | Health Flexible Spending Account (FSA) including a spouse's FSA, unless it is limited-purpose or post-deductible                                                                                                    |
| Bronze and catastrophic plans available as individual coverage through an exchange; effective for months beginning after December 31, 2025                                                                                                                                                  | Health Reimbursement Arrangement (HRA) unless it is a limited-purpose, post-deductible or retirement HRA                                                                                                            |
| Telemedicine and remote care services regardless of whether they are preventive care; effective January 1, 2025                                                                                                                                                                             | On-site clinics that provide more than nominal benefits such as flu-shots, bandages and over-the-counter pain relievers                                                                                             |
| Wellness program, so long as it does not provide "significant benefits" in the nature of medical care/treatment                                                                                                                                                                             | Indian Health Service benefits received within three months                                                                                                                                                         |
| Direct primary care, so long as it is limited to primary care services (no surgical, prescription drugs, etc.) for a fixed periodic fee, with maximum monthly inflation adjusted amounts of up to \$150 (single) and \$300 (family); effective for months beginning after December 31, 2025 | Carve-out coverage – an HDHP cannot carve out certain benefits, such as prescription drugs, and then cover the carved-out benefit on a separate plan that covers the benefit below the statutory minimum deductible |
| Employee assistance program (EAP), so long as it does not provide "significant benefits" in the nature of medical care or treatment                                                                                                                                                         | Free or reduced-cost "significant medical benefits," such as a hospital that allows employees to receive care at no cost                                                                                            |
| Workers' compensation coverage                                                                                                                                                                                                                                                              | VA medical benefits – unless used for hospital care or services for a service-related disability                                                                                                                    |
| Disease-management program, so long as it does not provide significant benefits in the nature of medical care or treatment; providing evidence-based information, support, monitoring, care coordination and resources would be permissible                                                 | Individual Coverage HRA (ICHRA) unless it is limited-purpose or post-deductible                                                                                                                                     |
| Prescription drug discount card so long as the amount actually paid by the participant is the amount applied toward satisfying the statutory deductible                                                                                                                                     | Excepted benefit HRA (EBHRA) that provides first-dollar coverage for medical expenses unless it is limited-purpose or post-deductible                                                                               |
| Business travel accident coverage                                                                                                                                                                                                                                                           | Prescription drug coverage that provides first-dollar coverage; permissible if no coverage until deductible is satisfied                                                                                            |

The 2025 Reconciliation Act expanded the use of HSAs by permanently defining telemedicine and remote care services as permissible coverage (effective retroactively to plan years beginning after December 31, 2024). The Act also added direct primary care (DPC) arrangements that meet certain requirements (effective for months beginning after December 31, 2025).

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### **Direct Primary Care Arrangements**

The 2025 Reconciliation Act expanded the use of HSAs by adding direct primary care (DPC) arrangements as permissible coverage, if they meet certain requirements. The DPC arrangement must be for a monthly fixed periodic fee that is no more than \$150 (individual) or \$300 (more than one individual). These amounts will be inflation indexed. The DPC arrangement must not include coverage for procedures that require the use of general anesthesia, prescription drugs (other than vaccines) or laboratory services not typically administered in an ambulatory primary care setting. DPC arrangements are permissible coverage effective for months beginning after December 31, 2025. Further, DPC fees are qualified medical expenses, and may be paid tax-free from the individual's HSA.

### **On-Site Clinics**

Given the similarities between direct primary care arrangements and the design of some employer-sponsored on-site clinics, some employers are wondering if an on-site clinic that provides primary care services can be paired with a high-deductible health plan and maintain employees' HSA eligibility. This seems likely, so long as the on-site clinic is designed to only provide primary care services for a flat, periodic fee (monthly, quarterly, etc.), and does not provide prohibited services such as pharmacy or surgical services.

Employees should receive education on disqualifying coverage prior to being permitted to enroll in an employer's HSA. Spousal coverage can create disqualifying coverage inadvertently. The most common mistake is when one spouse enrolls in an HDHP plan and makes HSA contributions, and the other spouse enrolls in a separate non-HDHP plan with an FSA (typically when both spouses have access to their own employer sponsored coverage). The spouse who enrolls in the FSA, even if they only have

Examples

- Emily and Noah are married. Emily is a full-time employee at The Soup Shop, and Noah is a full-time employee at The Sandwich Shop. Emily and Noah each enroll in single coverage with their respective employer. Emily enrolls in a PPO plan and elects the FSA. Noah enrolls in an HDHP and wishes to enroll in the accompanying HSA—but is ineligible. This is because Emily has an FSA (which is disqualifying coverage) and she is permitted to spend her FSA dollars on her medical expenses—and those of her spouse and dependents. Even if Emily does not spend her FSA dollars on Noah, Noah is still ineligible to contribute to his HSA.
- Emily and Noah are married. Emily is a full-time employee at The Soup Shop, and Noah is a full-time employee at The Sandwich Shop. Emily enrolls in The Soup Shop’s PPO plan with family coverage. Noah enrolls in The Sandwich Shop’s benefits—with single HDHP coverage. Because Noah is covered by Emily’s PPO plan, he is ineligible to contribute to his HSA.

FSAs create unique challenges for individuals who wish to contribute to an HSA. At a basic level, an FSA makes the individual ineligible to contribute to an HSA for the FSA's entire coverage period. If the employer offers a traditional "use-it-or-lose-it" FSA, electing an FSA in Year 1 will not impact HSA eligibility in Year 2. However, if an employer offers a grace period or a carryover feature, an individual's HSA eligibility may be impacted in Year 2, even if the individual does not elect an FSA in Year 2.

|                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Grace period and <ul style="list-style-type: none"><li>• Participant has a health FSA balance on the last day of the plan year<sup>1</sup></li></ul>                                                                                | Participant is not eligible to contribute to an HSA, or receive contributions from employer until the first of the month after the end of the grace period (e.g., April 1 if calendar year plan with 2½-month grace period)                                               |
| Grace period and <ul style="list-style-type: none"><li>• Participant does not have a health FSA balance on the last day of the plan year (e.g. full amount elected is reimbursed and the bank account shows \$0.00)</li></ul>       | Participant is eligible to participate in an HSA on the first day of the next plan year. HSA eligibility is not impacted.                                                                                                                                                 |
| Carryover/Rollover and <ul style="list-style-type: none"><li>• Participant has a health FSA balance on the last day of the plan year<sup>1,2</sup></li></ul>                                                                        | Participant is not eligible to contribute to an HSA, or receive contributions from employer for the entire subsequent plan year, even after the carryover is exhausted and even if the employee does not make or receive new health FSA contributions for that plan year. |
| Carryover/Rollover and <ul style="list-style-type: none"><li>• Participant does not have a health FSA balance on the last day of the plan year (e.g. full amount elected is reimbursed and the bank account shows \$0.00)</li></ul> | Participant is eligible to participate in an HSA on the first day of the next plan year. HSA eligibility is not impacted.                                                                                                                                                 |

1 Unless the plan is designed to permit participants to opt out or waive the grace period or carryover prior to the beginning of the following year.

2 Unless the plan is designed so a minimum threshold amount is required to create a new annual election and the employee's balance is less than the minimum or the employer also offers a limited purpose FSA and the plan is designed so remaining funds automatically carry over to the limited purpose FSA for employees who elect an HDHP.

Employers who wish to offer an FSA and an HDHP with an HSA should consider designing their FSA plans to allow participants to decline or waive their grace period or carryover at the end of the plan year. Both of these strategies would preserve HSA eligibility for an employee looking to move to the HDHP, but they must be implemented at the start of the plan year. It is not permissible for an employer to amend their FSA plan design mid-year to allow these options. Again, spouses should work together to ensure one of them does not enroll in an FSA and "spoil" the other spouse's HSA eligibility.

## Preventive Care

Generally, being covered by an HDHP requires that a covered individual or family meet a specified minimum deductible before the HDHP begins providing benefits. However, an exception exists to this rule with respect to "preventive care."

This exception provides that an HDHP may provide preventive care benefits without regard to whether the minimum deductible has been met (i.e., "first dollar" coverage), or according to a different, lower minimum. Thus, an HDHP providing certain preventive care benefits before the minimum annual HDHP deductible has been met will still be considered an HDHP for purposes of being eligible to contribute to an HSA.

## What is Preventive Care?

Correct identification of preventive care benefits is important to determine eligibility for HSA contributions. Employers cannot create a broader definition of preventive care to cover drugs or procedures they deem important or preventive. Under current law and guidance from the Treasury Department and Internal Revenue Service, an HDHP can provide the following preventive care benefits:

- Preventive services as defined in Section 1861 of the Social Security Act
- Preventive care under Notice 2004-23
- Preventive care under Q&A 26-27 to Notice 2004-50
- Preventive health care services required by Section 2713 of the Public Health Service Act
- Specified services and items for individuals with specified chronic conditions listed in the appendix to Notice 2019-45 (see chart on the following page).

| PREVENTIVE CARE FOR SPECIFIED CONDITIONS        | FOR INDIVIDUALS DIAGNOSED WITH                                     |
|-------------------------------------------------|--------------------------------------------------------------------|
| Angiotensin-converting enzyme (Ace) inhibitors  | Congestive heart failure, diabetes, and/or coronary artery disease |
| Anti-resorptive therapy                         | Osteoporosis and/or osteopenia                                     |
| Beta-blockers                                   | Congestive heart failure and/or coronary artery disease            |
| Blood pressure monitor                          | Hypertension                                                       |
| Inhaled corticosteroids                         | Asthma                                                             |
| Insulin and other glucose-lowering agents       | Diabetes                                                           |
| Retinopathy screening                           | Diabetes                                                           |
| Peak flow meter                                 | Asthma                                                             |
| Glucometer                                      | Diabetes                                                           |
| Hemoglobin A1c testing                          | Diabetes                                                           |
| International normalized ratio (INR) testing    | Liver disease and/or bleeding disorders                            |
| Low-density lipoprotein (LDL) testing           | Heart disease                                                      |
| Selective serotonin reuptake inhibitors (SSRIs) | Depression                                                         |
| Statins                                         | Heart disease and/or diabetes                                      |

*The notice, published July 17, 2019, specifies that the services and items listed in the appendix will be treated as preventive care only when they are prescribed (1) to treat an individual diagnosed with the corresponding chronic condition in the appendix and (2) for the purpose of preventing exacerbation of the condition or preventing the development of a secondary condition. If an individual is diagnosed with two or more chronic conditions, all the items and services listed that correspond with the conditions are preventive care.*

## Requirement 3: Cannot Be Enrolled in Medicare

Medicare coverage often creates issues for employees who work past their 65th birthday. Being entitled (i.e., eligible and enrolled) to Medicare makes an individual ineligible to contribute to an HSA. Medicare entitlement is no longer automatic for everyone when they turn 65; rather, most will need to sign up to get Medicare Part A and Part B. However, Medicare is automatic for individuals who:

- Are getting benefits from Social Security or the Railroad Retirement Board (RRB) at least four months before they turn 65;
- Are under age 65 and have disability benefits from Social Security or RRB for 24 months;
- Have ALS (also called Lou Gehrig's Disease).

If an employee delays enrollment in Medicare and continues to work beyond age 65, once the individual's employer-sponsored coverage ends, the employee has an eight-month special enrollment period to sign up for Medicare Part A. The first month of Medicare entitlement may be retroactive to the month the individual turned 65, or up to six months prior to enrollment, whichever is less. Therefore, an individual may need to stop HSA contributions for up to six months before applying for Medicare Part A benefits to avoid over-contributing to their HSA.

## Requirement 4: Cannot Be Claimed as a Dependent on Someone Else's Taxes

Individuals who can be claimed as a dependent on someone else's tax return are not HSA-eligible. The dependent child of an employee enrolled in family HDHP coverage cannot establish an HSA, even if the child has no other disqualifying coverage.

Employees should keep in mind that HSA funds can only pay for the expenses of the employee, their spouse (but not a domestic partner), and tax dependents as defined by IRS Code Section 223(d)(2)(A). This means that an older child who has not yet turned 26 and is no longer claimed as a dependent on their parent's taxes could not use the HSA to cover their qualified medical expenses, even if they are a covered dependent enrolled in the family HDHP plan. Conversely, that child could open their own HSA (and fund it to the full family contribution limit) if they did not have any other disqualifying coverage, because they were no longer a tax dependent of the employee parent.

**In order to preserve HSA eligibility, individuals who are working and over age 65 must:**

- Waive or not apply for Medicare Part A
- Not apply for Medicare Part B
- Waive or delay Social Security Benefits

# HSA Contributions

## Contribution limits to HSAs are based on:

- The date the individual becomes eligible;
- The date the individual ceases to be eligible;
- The tier of coverage in which the participant is enrolled on the first day of each month.

An individual’s eligibility is determined monthly — on the first day of the month. If an individual enrolls in an HDHP on May 1, but enrolls in disqualifying coverage on November 15, they can only contribute up to the full contribution limit for the months of May, June, July, August, September, October, and November — or 7/12 of the annual limit. If they did not enroll in the plan until May 2, they could only contribute 6/12<sup>th</sup>. Similarly, if they enrolled on May 1 but enrolled in the disqualifying coverage on November 1, they would be limited to 6/12<sup>th</sup> of the annual limit.

HSAs have a unique “last-month” rule that states, if an individual is eligible for an HSA on December 1 (or first day of the last month of their tax year) they will be considered eligible for the entire year, as long as they maintain HSA eligibility the following 12 months. This allows an individual who enrolls mid year to contribute the full annual contribution amount.

Individuals who move from family coverage to single coverage during the year can use the following formula to determine their contribution limit.

X = the number of months the individual was eligible under family coverage  
Y = the number of months the individual was eligible under single coverage

$$((X/12 \times \$\text{Annual Family Limit}) + (Y/12 \times \$\text{Annual Single Limit}))$$

Individuals may roll over or transfer existing HSA accounts and Archer MSAs into a new HSA and may transfer qualified HSA funding distributions from IRAs.

| ANNUAL CONTRIBUTION MAXIMUM                 | 2025    | 2026    | 2027    |
|---------------------------------------------|---------|---------|---------|
| Self-Only Coverage                          | \$4,300 | \$4,400 | \$4,500 |
| Family Coverage                             | \$8,550 | \$8,750 | \$9,000 |
| Catch-Up Contribution<br>(Age 55 and Older) | \$1,000 | \$1,000 | \$1,000 |

## Married Couples

An HSA is an individual account. Married couples may not share an HSA; however, they may share the family contribution limit. The IRS has a special rule for married couples: if either spouse has family coverage, and if both spouses are eligible individuals, they can divide the maximum family contribution limit between both spouses. Likewise, a married couple with both partners enrolled in HDHPs, one with family coverage and one with single, can contribute up to the full family amount between the two of them. They can divide their contributions between themselves as they see fit. The same rules apply if they are both enrolled in family coverage.

If they are both eligible for the catch-up contribution because they are both over age 55, they each may contribute to their own HSA an additional \$1,000.

|                                               | MARRIED<br>EMPLOYEE:<br>NO HEALTH<br>COVERAGE                                                                        | MARRIED<br>EMPLOYEE:<br>SELF-ONLY<br>NON-HDHP<br>COVERAGE                                                            | MARRIED<br>EMPLOYEE:<br>SELF-ONLY HDHP<br>COVERAGE                                                                                    | MARRIED<br>EMPLOYEE:<br>NON-HDHP<br>FAMILY<br>COVERAGE                                                                                        | MARRIED<br>EMPLOYEE:<br>FAMILY HDHP<br>COVERAGE                                                                                     |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| <b>Spouse has no health coverage</b>          | Neither can contribute to an HSA.                                                                                    | Neither can contribute to an HSA.                                                                                    | Employee is eligible to contribute up to the <b>self-only maximum</b> .<br><br>Spouse is not eligible to contribute.                  | Neither can contribute to an HSA.                                                                                                             | Employee is eligible to contribute up to the <b>family maximum</b> .<br><br>Spouse is not eligible to contribute.                   |
| <b>Spouse has self-only non-HDHP coverage</b> | Neither can contribute to an HSA.                                                                                    | Neither can contribute to an HSA.                                                                                    | Employee is eligible to contribute up to the <b>self-only maximum</b> .<br><br>Spouse is not eligible to contribute.                  | Neither can contribute to an HSA.                                                                                                             | Employee is eligible to contribute up to the <b>family maximum</b> .<br><br>Spouse is not eligible to contribute.                   |
| <b>Spouse has self-only HDHP coverage</b>     | Spouse is eligible to contribute up to the <b>self-only maximum</b> .<br><br>Employee is not eligible to contribute. | Spouse is eligible to contribute up to the <b>self-only maximum</b> .<br><br>Employee is not eligible to contribute. | Both employee and spouse are eligible to contribute up to the <b>self-only maximum</b> .                                              | Neither can contribute EXCEPT spouse may contribute up to the <b>self-only maximum</b> if not covered by employee's non-HDHP family coverage. | Both can contribute up to the <b>family maximum</b> .                                                                               |
| <b>Spouse has non-HDHP family coverage</b>    | Neither can contribute to an HSA.                                                                                    | Neither can contribute to an HSA.                                                                                    | Neither can contribute EXCEPT employee may contribute up to the Self-Only Maximum if not covered by spouse's non-HDHP family coverage | Neither can contribute to an HSA.                                                                                                             | Neither can contribute EXCEPT employee may contribute up to the Family Maximum if not covered by spouse's non-HDHP family coverage. |
| <b>Spouse has family HDHP coverage</b>        | Spouse is eligible to contribute up to the <b>family maximum</b> .<br><br>Employee is not eligible to contribute.    | Spouse is eligible to contribute up to the family maximum.<br><br>Employee is not eligible to contribute.            | Both can contribute up to the <b>family maximum</b> between the two (treated as having only family coverage)                          | Neither can contribute EXCEPT spouse may contribute up to the <b>family maximum</b> if not covered by employee's non-HDHP family coverage.    | Both employee and spouse are eligible to contribute up to the <b>family maximum</b> .                                               |

*Note: If an eligible domestic partner is covered under the HDHP, both the employee and the domestic partner are able to contribute up to the family maximum, plus the catch-up contribution if applicable. Contribution limits are not tied to tax-dependent status.*

## Employer Contributions

### Nondiscrimination

Employers may contribute to an employee's HSA, and their contributions count toward the total contribution limit for the year. Employers' contributions are subject to either comparable contribution rules or the nondiscrimination rules under Internal Revenue Code Section 125.

If the employer includes the HSA (i.e. allows employees to make contributions to an HSA pre-tax) in their Section 125/Cafeteria plan, the Section 125 nondiscrimination rules apply. These rules prohibit employers from favoring highly compensated or key employees.

If the HSA is not part of a Section 125 plan, comparable contribution rules apply. This rule requires employers to make comparable (equal) contributions to all comparable participating employees' HSAs. Comparable contributions are either the same amount or the same percentage of the annual deductible limit under the HDHP covering the employees. Comparable employees are those who are covered by their HDHP and eligible for an HSA, have the same category of coverage (self or family), and have the same category of employment (part-time, full-time, union or non-union, current or former employee).

In general, HSA contributions are nonforfeitable. It does matter who made the contributions. Employers cannot subject contributions to a vesting schedule, and employers cannot request or require employees to return contributions if they terminate during the year. Only the beneficiary of the account can determine how and where to spend their funds.

### Prohibited Transactions

Individuals cannot use an HSA to loan money between the individual and the HSA. The practical impact of this is, individuals who overdraw their HSA account will be subjected to an additional 20% excise tax and they will lose HSA eligibility for the entire year. The HSA will be closed by the bank under federal law, and the individual cannot reopen the account at that bank or any other bank for the year.



## Distributions

Individuals may receive tax-free distributions from their HSA to pay for or be reimbursed for qualified medical expenses incurred after the establishment of the HSA.

HSA-qualified medical expenses are all medical expenses allowed by IRC Section 213, except insurance premiums. There is an exception for COBRA premiums, Long-Term Care Insurance premiums, or if the individual is not enrolled on Medicare, they can pay premiums for supplemental health insurance. If they are enrolled in Medicare, any supplemental plan would not be reimbursable. Remember, that if premiums are paid with HSA funds the individual cannot claim the health coverage tax credit for the premiums.

Qualified medical expenses can be incurred by the policy holder/employee, their spouse, all dependents on the employee's tax return, and all people who could have been claimed on the individual's tax return unless that person filed a joint return, the person had a gross income of \$4,200 or more, or the individual or spouse (if filing jointly) could be claimed as a dependent on someone else's return. Generally, a domestic partner's expenses are not qualified medical expenses.

The child of parents who are divorced (or separated, or living apart for the last six months of the calendar year) are considered dependents of both parents (regardless of whether the custodial parent releases the claim to the exemption) for purposes of HSA distributions.

In the event an individual loses HSA eligibility, they can spend the remaining HSA dollars on qualified medical expenses going forward.

| ALLOWABLE EXPENSES                                                      | DISALLOWED EXPENSES          |
|-------------------------------------------------------------------------|------------------------------|
| Qualified medical expense incurred overseas                             | Medical marijuana            |
| COBRA premiums, long-term care insurance premiums, Medicare supplements | All other insurance premiums |

If an HSA holder chooses to use HSA funds for unqualified expenses, this is permitted, but there may be a penalty. Those payments would be subject to a 20% tax, unless one of the following exceptions occurs:

- Payments are made following the account holder's death;
- Payments are made after the account holder attained age 65;
- Payments are made after the account holder becomes disabled;
- Excess contributions are returned to the account holder;
- Rollover contributions are paid into an HSA within the statutory timeframe.

## Correcting Overfunding

HSA contributions are not deductible if they exceed the maximum contribution limit or are made by or on behalf of a person who is not eligible.

An excise tax of 6% is imposed on the account holder for all excess contributions, regardless of who made them. The tax is cumulative, requiring the account holder to pay the tax on all excess contributions in the account, even if they were made in previous years. The 6% tax can be avoided with a curative distribution made before the account holder's deadline for filing their federal income tax return (including extensions). The net income of the excess contribution must be included in their gross income for the year.

## Correcting Funding Mistakes

HSA funds are non-forfeitable — with two limited exceptions. The IRS, when providing these exceptions, did note that other corrections could be allowable if there is “clear documentary evidence demonstrating there was an administrative or process error.”

The first exception is a mistake regarding the individual's eligibility to establish and/or contribute to the HSA. If the employer discovers that the employee was never HSA eligible, it can request the financial institution return the balance of the account. If the account closure and balance return do not happen until after the end of the year, a corrected W-2 will be required, and if the employee had already filed their income taxes for that year, an amended tax return would be necessary. This exception does not allow an employer to recoup funds if the employee was HSA eligible when they opened the account and later lost their eligibility.

The second exception is if an employer's contribution causes an employee's HSA to become funded over the maximum annual contribution allowed based on the employee's level of HDHP coverage (single or family). When this happens, the HSA trustee (the bank) may return the erroneous excess contribution to the employer upon the employer's request.



## About Alera Group

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\*STATISTICS ACCURATE AS OF MARCH 31, 2026.

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