

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 950

H.P. 707

House of Representatives, February 25, 2003

### **An Act Authorizing the Creation of Individual Medical Savings Accounts**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BOWEN of Rockport.  
Cosponsored by Representatives: CLOUGH of Scarborough, GLYNN of South Portland,  
SUSLOVIC of Portland, TRAHAN of Waldoboro.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 24-A MRSA c. 33-A is enacted to read:**

6 **CHAPTER 33-A**

8 **INDIVIDUAL MEDICAL SAVINGS ACCOUNT ACT**

10 **§2761. Short title**

12 This chapter may be known and cited as "the Individual Medical Savings Account Act."

14 **§2762. Definitions**

16 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

18 1. **Account administrator.** "Account administrator" means any of the following entities permitted as trustees of medical savings accounts pursuant to 26 United States Code, Section 220:

22 A. A financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A;

24 B. An insurance company, health maintenance organization or 3rd-party administrator authorized to do business in this State pursuant to this Title; or

26 C. A nonprofit hospital and medical service organization authorized to do business in this State pursuant to Title 24.

28 2. **Account holder.** "Account holder" means an individual who has established an individual medical savings account.

30 3. **Eligible medical expenses.** "Eligible medical expenses" means expenses paid by an account holder for medical care that are described in 26 United States Code, Section 213(d).

32 4. **Individual medical savings account.** "Individual medical savings account" or "account" means a trust created or organized to pay eligible medical expenses.

34 **§2763. Establishment and procedures**

36 Individual medical savings accounts may be established subject to the following procedures.

1           1. Health insurance coverage. Before establishing an  
2 individual medical savings account, the prospective account  
3 holder must obtain or have a high-deductible health plan that  
4 meets the following conditions:

5           A. For individual coverage, the health insurance policy  
6 must have an annual deductible of not less than \$1,500 and  
7 not more than \$2,550;

8           B. For family coverage, the health insurance policy must  
9 have an annual deductible of not less than \$3,000 and not  
10 more than \$4,500; and

11           C. The annual out-of-pocket expenses, other than for  
12 premiums, for covered benefits may not exceed \$3,000 for  
13 individual coverage or \$5,500 for family coverage.

14           The annual deductible and annual limit on out-of-pocket expenses  
15 established in this subsection may be adjusted to conform to any  
16 cost-of-living adjustment made pursuant to 26 United States Code,  
17 Section 220.

18           2. Account establishment. A person may establish an  
19 individual medical savings account for taxable years beginning  
20 after December 31, 2003. The account must be established as a  
21 trust under the laws of this State and must be placed with an  
22 account administrator. At the time of establishment, the account  
23 administrator shall notify the account holder of potential  
24 federal income tax liability that may be associated with the  
25 account.

26           3. Payment of eligible medical expenses. The account  
27 administrator may use the funds in an account solely to pay  
28 eligible medical expenses of the account holder and members of  
29 the account holder's household that are not otherwise covered  
30 under the account holder's existing health insurance coverage.  
31 Funds held in an account may not be used to cover medical  
32 expenses of the account holder or members of the account holder's  
33 household that are otherwise covered, including, but not limited  
34 to, medical expenses covered pursuant to an automobile insurance  
35 policy, a workers' compensation insurance policy or a  
36 self-insured workers' compensation plan. If the account holder  
37 submits appropriate documentation to the account administrator,  
38 the account administrator may reimburse the account holder from  
39 account funds for eligible medical expenses paid directly by the  
40 account holder during the taxable year.

41           4. Employer contribution. Upon agreement between an  
42 employer and an employee, an employer may contribute to the  
43 employee's individual medical savings account.  
44

2           5. Limits. In each taxable year, the total deposits that  
4           may be made to an account by or on behalf of an account holder  
          are limited in accordance with 26 United States Code, Section 220  
          to:

6                   A. Sixty-five percent of the annual deductible for  
8                   individual coverage; and

10                   B. Seventy-five percent of the annual deductible for family  
          coverage.

12           6. Conformity with federal law. An individual medical  
14           savings account must meet the requirements of this chapter and  
          the requirements of 26 United States Code, Section 220,  
16           including, but not limited to, requirements for tax treatment of  
          contributions and distributions and for account terminations.

18           7. State tax consequences. The tax treatment of an  
20           individual medical savings account is governed by Title 36,  
          chapter 914.

22           8. Technical assistance. The bureau shall provide  
24           technical assistance within existing resources to account  
          administrators that offer individual medical savings accounts.

26           **§2764. Rulemaking**

28                   The superintendent may adopt rules as necessary to carry out  
30           the purposes of this chapter. Rules adopted pursuant to this  
          chapter are routine technical rules as defined in Title 5,  
32           chapter 375, subchapter 2-A.

34           **§2765. Contingent repeal**

36                   This chapter is repealed upon the repeal of federal  
          legislation authorizing medical savings accounts, 26 United  
38           States Code, Section 220.

40           **Sec. 2. 36 MRSA §5122, sub-§1, ¶¶O and P,** as enacted by PL  
          2001, c. 700, §4 and affected by §10, are amended to read:

42                   O. The amount of the contribution to a qualified  
44                   scholarship organization that is included in the credit base  
          of the educational attainment investment tax credit under  
46                   section 5219-U to the extent that the contribution has been  
          used to adjust federal adjusted gross income; and

48                   P. The amount of the loan repayment included in the credit  
50                   base of the recruitment credit under section 5219-V to the

2 extent that the repayment has been used to adjust federal  
adjusted gross income; and

4 **Sec. 3. 36 MRSA §5122, sub-§1, ¶Q** is enacted to read:

6 Q. Amounts withdrawn pursuant to section 6601, subsection 4  
8 by the taxpayer during the taxable year from an individual  
medical savings account established in the taxpayer's name.

10 **Sec. 4. 36 MRSA §5122, sub-§2, ¶¶R and S**, as enacted by PL  
2001, c. 714, Pt. AA, §4, are amended to read:

12  
14 R. For tax years beginning in 2005, 2006 or 2007, an amount  
16 equal to 1/3 of any amount added back to federal adjusted  
18 gross income by the taxpayer for the 2003 tax year pursuant  
20 to subsection 1, paragraph N, except with respect to 3-year  
22 property, in which case this paragraph does not apply to  
2006 or 2007 tax years and the amount to be subtracted  
pursuant to this paragraph in the 2005 tax year is an amount  
equal to the amount added back pursuant to subsection 1,  
paragraph N for tax years beginning in 2003; and

24 S. For tax years beginning in 2006, 2007 or 2008, an amount  
26 equal to 1/3 of any amount added back to federal adjusted  
28 gross income by the taxpayer for the 2004 tax year pursuant  
30 to subsection 1, paragraph N, except with respect to 3-year  
32 property, in which case this paragraph does not apply to  
2007 or 2008 tax years and the amount to be subtracted  
pursuant to this paragraph in the 2006 tax year is in an  
amount equal to the amount added back pursuant to subsection  
1, paragraph N for tax years beginning in 2004; and

34 **Sec. 5. 36 MRSA §5122, sub-§2, ¶T** is enacted to read:

36 T. Contributions or deposits to an individual medical  
38 savings account established under chapter 914 subject to the  
following limitations.

40 (1) The taxpayer may subtract:

42 (a) The amount of contributions made by the  
44 taxpayer's employer during the taxable year to the  
taxpayer's individual medical savings account to  
the extent that the employer contributions are  
included in the taxpayer's federal adjusted gross  
income; and

48 (b) The amount deposited by the taxpayer in the  
50 account during the taxable year.

2                   (2) The taxpayer's employer may subtract the amount of  
4                   contributions made by the employer to an individual  
6                   medical savings account established on the taxpayer's  
                    behalf to the extent that the contributions are not  
                    deductible under the Code.

8                   **Sec. 6. 36 MRSA §5164, sub-§1**, as amended by PL 1999, c. 708,  
                    §38, is further amended to read:

10                   **1. Fiduciary adjustment defined.** The fiduciary adjustment  
12                   is the net amount of the modifications described in section 5122,  
14                   including subsection 3 if the estate or trust is a beneficiary of  
16                   another estate or trust, which relates to items of income or  
18                   deduction of an estate or trust. Income taxes imposed by this  
20                   State or any other taxing jurisdiction and interest or expenses  
                    incurred in the production of income exempt from tax under this  
                    Part deducted in arriving at federal taxable income must be added  
                    back to the fiduciary adjustment. Interest or expenses incurred  
                    in the production of income taxable under this Part but exempt  
                    from federal income tax must be subtracted from the fiduciary  
                    adjustment.

22                   Interest income earned on a trust that is established as an  
24                   individual medical savings account pursuant to chapter 914 is not  
26                   included as income if the interest income is received on  
28                   obligations of a state, territory or possession of the United  
30                   States or a political subdivision of a state, territory or  
32                   possession that is located outside this State. For such interest  
                    income, interest earned by a trust that is established as an  
                    individual medical savings account may be subtracted from the  
                    adjusted gross income to the extent that the income is included  
                    in the trust's Maine gross income during the taxable year.

34                   **Sec. 7. 36 MRSA §5204-C** is enacted to read:

36                   **§5204-C. Nonqualified withdrawal from an individual medical**  
38                   **savings account**

40                   The tax imposed under this Part on any individual as a  
42                   result of a withdrawal of funds from an individual medical  
44                   savings account other than for the payment of eligible medical  
                    expenses must be increased by an amount equal to 10% of the  
                    amount withdrawn.

46                   **Sec. 8. 36 MRSA §5220, sub-§1, ¶A**, as repealed and replaced by  
                    PL 1987, c. 504, §33, is amended to read:

48                   A. Who is required to file a federal income tax return for  
50                   the taxable year; ~~or~~

2           **Sec. 9. 36 MRSA §5220, sub-§1, ¶B**, as amended by PL 1987, c.  
819, §10, is further amended to read:

4           B. Who, pursuant to this Part, has a Maine individual  
income tax liability for the taxable year; or

6           **Sec. 10. 36 MRSA §5220, sub-§1, ¶D** is enacted to read:

8           D. Who is subject to the penalty imposed by section 5204-C.

10          **Sec. 11. 36 MRSA c. 914** is enacted to read:

12   **CHAPTER 914**

14   **INDIVIDUAL MEDICAL SAVINGS ACCOUNTS**

16          **§6601. Individual medical savings accounts**

18           1. Definitions. As used in this chapter, unless the  
20          context otherwise indicates, the following terms have the same  
22          meaning as in Title 24-A, chapter 33-A: "account administrator,"  
"account holder," "eligible medical expenses" and "individual  
medical savings account."

24           2. Deposits; deduction. An amount deposited into an  
26          individual medical savings account in accordance with Title 24-A,  
section 2763, subsection 4 may be subtracted from taxable income  
28          of the account holder during the same tax year. Funds withdrawn  
pursuant to subsection 3 must be considered income for the  
30          purpose of computing adjusted gross income.

32           3. Withdrawals. If an account holder withdraws funds from  
an individual medical savings account for any purpose other than  
34          for the payment of eligible medical expenses, the withdrawal is  
subject to income tax. The account administrator shall withhold  
36          the amount of income tax payable on any withdrawal under this  
subsection.

38           4. Contingent repeal. This chapter is repealed upon the  
40          repeal of federal legislation authorizing individual medical  
savings accounts, 26 United States Code, Section 220.

42   **SUMMARY**

44   **44**

46          The bill provides enabling legislation for health insurance  
carriers to offer medical savings accounts in conjunction with  
48          health insurance for policyholders in the individual health  
insurance market. Medical savings accounts must conform to the  
50          requirements for the accounts under federal law. Individuals



2 with medical savings accounts are eligible for a federal tax  
deduction for contributions to the accounts and are not taxed for  
4 withdrawals used to pay qualified medical expenses. The bill  
makes contributions to, interest earned on and qualified  
6 withdrawals from individual medical savings accounts exempt from  
Maine state income tax. The bill also requires the Department of  
8 Professional and Financial Regulation, Bureau of Insurance to  
provide technical assistance to those companies that offer  
10 medical savings accounts in conjunction with individual health  
insurance policies within the bureau's existing resources. The  
12 legislation is repealed upon the repeal of federal legislation  
authorizing medical savings accounts.