

Trump Executive Orders on HSA Expansion

On Monday, June 24th, President Trump directed three cabinet departments to issue guidance expanding certain consumer-driven health (CDH) programs. Please note that these directives do not constitute law. The president instructed the departments of Health & Human Services, Treasury, and Labor to propose guidance on each of the three areas. Presidents can issue executive orders without the involvement of Congress.

The three target areas of the president's directive:

HSAs for chronic conditions. President Trump requested guidance within 120 days (the end of October) that expands the definition of preventive care to include first-dollar (not subject to the deductible) coverage for certain high-value, low-cost services for chronic conditions. Individuals enrolled on these plans could receive certain care with no cost-sharing and still make or receive contributions to their HSAs.

Direct-primary care (DPC) and HSAs. A DPC provider is a primary care physician not affiliated with an insurer or provider group who charges a monthly access fee and provides primary care and consultation at no additional patient cost. Under current guidance issued by the Obama administration, patients enrolled in a DPC are considered to have first-dollar coverage and therefore can't make or receive contributions to their HSAs, nor can they reimburse their monthly fees tax-free from their HSA.

The president's directive also refers to healthcare sharing ministries, voluntary groupings in which members – who usually share a common faith – pledge to cover each other's medical expenses through an arrangement that falls short of actual insurance. Individuals enrolled in these plans aren't HSA-eligible under current guidance.

Guidance in these areas is due within 180 days (end of December).

Increased carryover of Health FSA balances. Then-President Obama issued guidance in 2013 permitting a carryover of up to \$500 of unused balances in the following Health FSA plan year. President Obama didn't signal in his directive whether he wants to merely increase that figure or allow Health FSA members to accumulate long-term balances as HSA owners do. Guidance is due within 180 days (end of December).

You can read the complete text of the president's directive here. [<https://www.whitehouse.gov/presidential-actions/executive-order-improving-price-quality-transparency-american-healthcare-put-patients-first/>]. The CDH topics appear in Section 6.

We will provide more information to you as it becomes available.