UMB Healthcare Services
HSA FAQ Resource Library

This FAQ document gives you easy answers to your employer clients' most common questions. Simply click the question below and it will take you to the answer. You can easily copy and paste answers for your own use, however please be sure to include the complete answer since a partial answer may change the context. In addition some questions may seem duplicative, but there are some subtle differences within the questions that lead to a different response to the answer.

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Answers

I. Contributions, Incentives and Funding

Q1: Can incentives be tied to "medical outcomes" (i.e. meeting/exceeding specific biometric screening results)?

A: *HSA contributions for participation in any health/wellness programs can only be structured within a Section 125 Cafeteria Plan – for this question, we will assume that we are dealing with such a plan. With that understanding, while incentives can be tied to participation/completion of wellness programs, it is not recommended that you tie any incentives to medical outcomes. This practice may present a challenge for employees to meet these outcomes and thereby brings a host of potential liabilities to bear, most significantly are potential violations of the Americans with Disabilities Act (ADA), and compliance with HIPAA privacy and nondiscrimination requirements. Before undertaking any plan for medical outcomes, we highly recommend that you were to consult a qualified benefits attorney.*

Q2: Can employers provide different contribution amounts to different employees in an HSA?

A: *Yes, but all contributions made outside of a Section 125 Cafeteria Plan are subject to comparability, which severely limits the employers' flexibility with contributions. If made inside the 125, they are subject to non-discrimination rules, but are allowed much more flexibility. Please see slides 12-18 of the webinar – "Top Questions: Employer Funding and Contribution Strategies for HSAs" for more information.*

Q3: Can an employer fund a select group of EEs who choose to participate in a wellness program (i.e. 12 week weight loss program prescribed by a physician at a local YMCA?)

A: *Yes, so long as the contributions are structured through a Section 125 Cafeteria Plan, and that participation in the wellness incentives are made available to all employees.*

Q4: I thought you said you could increase ER contributions for wellness activities? This would vary contributions on something other than employee and coverage categories. Please advise.

A: *If made inside a Section 125 Cafeteria Plan, you can offer wellness incentives. Outside a 125, you cannot due to comparability. For more helpful information on this, please see IRS notice 2004-50, Q/A# 46-54 & 57-61.*

Q5: Can you offer an "Executive only" HSA contribution plan for Executives?

A: *Effectively NO, unless your executives are the lower paid employees! (and you are using a Section125 Cafeteria Plan…) If you are subject to comparability (contributions made outside a 125 plan), you could never do this unless the executives were your only employees since it will fail comparability. Assuming then that you were to structure the* *contributions through the 125, the problem you will run into is that you cannot discriminate against lower paid employees. In other words, higher paid employees (i.e. most executives) cannot be given contributions that lower paid employees don't get.You can always discriminate in favor of the lower paid employees more, but never the higher paid employees. For more helpful information on this, please see IRS notice 2004-50, Q/A# 46-54 & 57-61.*

Q6: Can an employer, inside a Section 125 plan, do a matching contribution for all employees similar to a 401K match, with a minimum/maximum amount so not to allow a discriminatory effect in favor of highly compensated who can afford to contribute more.

A: *Yes, as long as you make the match available for all employees covered within the 125 and they all have the same opportunity to earn the match.*

Q7: Can HSA contributions be made by employers the same way they can with an HRA? Reimbursing through employee statement of benefits?

A: *No, all employer contributions must be made directly into the HSA account.*

Q8: Have you seen employers' contributions increase when you move from a flat contribution to a matching fund contribution? If so, how much up or down?

A: *We have not studied this to any level of detail so any evidence would be purely anecdotal, however we think it is fair to say that anything you can do to get the employee more deeply engaged provides substantial benefits to the employee and employer. We will have to study this one more before providing a definitive answer.*

Q9: Can an employer offer incentive dollars to an employee's HSA for participating in a health improvement program (such as smoking cessation)? Would this cause any concerns with comparability rules (since not all employees smoke)?

A: *This question is touched on in several of the questions above (and the presentation), however incentives for wellness programs can ONLY be offered if the contributions are made through a Section 125 Cafeteria plan. The issue here is offering an incentive for a program that not everyone can participate in. If that were the case, the employer might fail non-discrimination testing. Therefore, our recommendation would be to make sure that all employees be given the same opportunity for earning incentive contributions.*

Q10: What are examples of wellness contributions an ER can offer to EE's and does the ER have to have a certain type of plan to be able to contribute equally to all employees?

A: *Incentive contributions for participation in wellness programs are only allowable if structured in a Section 125 Cafeteria Plan. The incentive doesn't have to be paid out to everyone, but it needs to be made available to everyone covered under the 125.*

Q11: How do you design wellness incentive into an HSA plan without violating discrimination rules?

A: *The most important issue is making sure that all employees covered under the 125 plan have the same ability to participate in the incentives. If you look at how nondiscrimination testing is performed, the important concept is that there is parity – not necessarily that every employee be given the same amount (such as with comparability), but that they have the same opportunity. For more helpful information on this, please see IRS notice 2004-50, Q/A# 46-54 & 57-61.*

Q12: If the HSA is already established but not fully funded, can future contributions be used to pay for expenses incurred AFTER the HSA was established?

A: *Yes. While you cannot make qualified distributions from an HSA for expenses incurred prior to the establishment date, there is no time limit for when a reimbursement must occur in an HSA. You could pay for an expense today with regular funds and then reimburse yourself years in the future from your HSA if you so desire. This is confirmed in IRS Notice 2004-2, Q/A# 24.*

Q13: If you pay the full employer contribution early in the plan year, then what happens if the employee leaves/is terminated?

A: *Once an employer makes a contribution into the employee's HSA, it is legally owned by the employee and they can do whatever they want with the funds. Hence, if the employee leaves, they keep the funds. While this is a "risk" to an employer, it is something that they have little control over, and besides, if someone is going to leave the company, it is unlikely that they are waiting around for an HSA contribution before leaving. Some employers may choose to spread their contribution out throughout the year in an effort to minimize this issue.*

Q14: How do you overcome the objection if an employer does not want to fund the HSA and the employees are concerned about covering the deductible totally on their own from day one?

A: *This can be tough depending on a lot of factors, most significantly the plan deductible and the ability for employees to meet that deductible should they incur expense. Education and communication can help dramatically in these situations, but the employer is really hurting themselves with employee perception by not making a contribution. Even if the employer were to offset their premium contributions by an amount equal to their HSA contribution (so it is cost neutral to them), the improved impact to employee perception of the plan is dramatic. The bottom line is that we STRONGLY encourage the employer to make a contribution. Beyond this, we also remind the employee that even if they utilize health care services immediately upon the start of the plan year, it is usually quite some time before they actually have to pay the bill due to the time necessary to adjudicate the claim and have the provider send a bill. Even then, they can use another form of payment (such as a credit card) for the bill and then just reimburse themselves at a later date when* *they have the money. Through a combination of these points, we have been quite successful in overcoming this fear.*

Q15: In your opinion, what is the best case scenario for an HSA when the group can realize enough of a premium reduction in order to use the savings to fund the HSA?

A: *It is our opinion that if an employer is going to offer an HDHP, they need to make a contribution to the account, at least in the early years until the average balance in the account can be built up. While premium savings is only one of the factors in the attractiveness in an dual-offering benefits program, it undoubtedly makes a big difference.*

Q16: I am located in NY. I don't think that employee pre-tax HSA contributions are removed from workers comp cost, only the FICA and unemployment taxes. Please advise.

A: *This depends on the Workers Compensation laws within the state, and all 50 states are different. Workers Compensation payroll is normally calculated on a "gross" basis, but the definition of what is included in "gross" can vary by state. The norm is that employer payments in a cafeteria plan are excluded from the gross payroll figure for calculation of WC rates, and since employee pre-tax contributions are deemed employer payments by the IRS, they are thereby excluded. However, we recommend that you research the exact rules for the state you are governed by to be certain how they handle these payments.*

II. HSA vs. FSA

Q17: Did you say that you can take unused money under the HSA and use it towards FSA benefits? I thought you would have to "elect" an amount under the FSA at the beginning of the year.

A: *FSA funding is completely separate from HSA funding, and you are correct that FSA funding elections are made only at the beginning of the plan year. In addition, if you are contributing to an HSA, you cannot participate in a health FSA, only limited purpose FSAs. A health FSA would constitute "other coverage" and thereby disqualify you from making contributions to the HSA. However, regardless of other types of coverage, HSA funds can be used tax-free for any qualified medical expenses (as defined by IRC Section 213(d)). For instance, even if you have a limited purpose FSA for dental and vision expenses, if you have exhausted those FSA funds, you can still use your HSA funds to make qualified distributions for any of those expenses.*

III. HSA vs. HRA

Q18: Why would an employer go HSA vs. HRA? What are the benefits for the employer?

A: *There are pros and cons to all benefits plans, and therefore this will only be a general characterization, but there is enough hard data available today that makes a very strong case for an employers' use of an HSA plan over an HRA. Here are some highlights:*

- ***Premium Savings*** *– According to the Kaiser Family Foundation's annual Employer Health Benefits Survey the national average premium for an HSA qualified HDHP versus an HRA with an HDHP is about18% lower. Here are the study results:*

Average Premiums	**Single**	**Family**
HDHP/HSA	$4,713	$13,446
HDHP/HRA	$5,271	$15,169
Average Employer Contribution	**Single**	**Family**
HSA	$609	$1,070
HRA	$970	$1,840

Source: Kaiser®/HRET Survey of Employer Sponsored Health Benefits – September 2012

- ***Lower long term costs –*** *This is attributable to two things:*
    - **Better Claim Experience** *– carrier studies have confirmed that claim experience for HSA based plans is significantly improved over HRA based plans. Most studies attribute this to improved health-related consumer habits of HSA enrollees over HRA and traditional plan participants. Even if you are fully insured, this does benefit the employer long term.*
    - **Reduced need for employer contributions** – *HSA accountholders tend to carry over a balance each year and grow their balance which results in many employers reducing or eliminating their HSA contributions in the future. The exact opposite happens with HRAs, which typically increase since the employees feel they "need to spend or they lose the funds" versus HSAs dollars that they feel they "need to save." You can see this demonstrated in* AETNA®'s *Health Fund Survey which shows:*
        - *People covered by an HRA are 19 times more likely to spend ALL their available funds (57% vs. 3%) than an HSA enrollee*
        - *The majority of HSA enrollees carry over a balance each year vs. the majority of HRA enrollees spend ALL of their available funds.*
        - *The percentage of HSA enrollees that don't spend ANY of their contributions is two times that of HRA enrollees (24% vs. 12%)*
- ***Additional Savings from pre-tax contributions –*** *Every dollar that an employee contributes to an HSA saves the employer approximately 10-13% in taxes and payroll costs.*
- ***Improved Health Spending Habits –*** *HRAs do not drive improved health habits of their enrollees. Because HRA funds are viewed as "entitlement" dollars, it is harder to engage employees to become better healthcare consumers. Studies have shown how HSAs enrollees are:*
    - *5 times more likely to complete a health risk assessment*
    - *19% more likely to use a health advocate*
    - *40% more likely to use online cost and quality tools*

- *13% fewer office visits*
  - *9% more use of generic pharmacy*
  - *14% overall lower pharmacy costs*
  - *21% more likely to participate in disease management program*
  - *Have significantly higher contributions to their 401(k) plans too!*
- ***Easier Administration and Lower Administration Costs –*** *The average HSA administration cost is a fraction of the monthly administrative cost of an HRA. Overall, the administration burden is significantly less with an HSA than an HRA. For instance, HSAs are not subject to COBRA and the employer has no obligation to make sure expenses are substantiated.*
- ***Improved Employee Satisfaction –*** *Employee satisfaction with their benefits is one of the most significant contributors to employee engagement and employee productivity. Studies have shown that a properly designed HSA plan yields a higher employee satisfaction level than HRAs and even traditional plans.*

Q19: If an employer is willing to contribute to an HSA which they have no control over, why wouldn't they contribute towards an HRA instead which they do control?

A: *Please see the question above regarding the advantages of an HSA over an HRA. Employers have to weigh the pros and cons of any benefit plan they structure. An employer may desire an HRA because they allow more design flexibility, or because they can elect to retain remaining funds if unused or the employee terminates (since the employer retains full control over the funds in the company's general asset account and only fund claims as they occur for those employees who actually incur a an allowable expense, as defined by the Employer). However, an HRA will generally incur significantly higher long term costs, and lower employee engagement in becoming better healthcare consumers in the process.*

IV. HDHP

Q20: Have you experienced a problem with competitive pricing on HDHP's to make the HSA concept work?

A: *HDHP pricing (as with all health plan pricing) is very volatile, and can vary dramatically from carrier to carrier, and market to market. Health plans often under or over price their products for a variety of reasons, and sometimes the simple fact is that the HDHP may not always be priced competitively. According to multiple national studies on health plan premiums over the last 5 years, the premium savings for an HSA qualified HDHP versus traditional plans has hovered around 20% for both single and family coverage. We have seen markets have HDHP pricing high, then very low, and then high again within 2 years as carriers have struggled to get their pricing right. However, over the long term, properly priced HSA qualified HDHPs will undoubtedly yield significantly lower premiums due to the lower claim propensity and higher cost sharing by the insured. If you look at the most stable (and largest) HDHP markets, their pricing has stabilized and typically remains 20-25% lower than a comparable traditional plan. With this being said, benefit plan parameters need to be reviewed year over year, including deductibles and coinsurance* *levels to ensure that, as HSA accounts build in value, there will not be deductible erosion effect which might increase healthcare service consumption and defeat the inherent consumerism of the high deductible plan.*

V. Eligibility

Q21: What if I have an employee that is 65 on Medicare but the spouse is 62....can they open the HSA account for the 62 year old allowing for reimbursements for both insured?

A: *Yes. As long as the spouse otherwise meets the requirements to contribute to an HSA (covered by a QHDHP, not enrolled in Medicare or other disqualifying coverage, and not claimed as someone else's tax dependent), they can contribute to an account. Regardless of the contributions, the HSA funds can always be used for the qualified medical expenses of the accountholder, their spouse or dependents.*

Q22: If my employer has a qualified high deductible plan which I am eligible for but do not participate because I receive benefits through my spouse, can I still take part in an HSA?

A: *Perhaps. If the coverage you are covered under by your spouse's plan is an HSA qualified HDHP, and you are otherwise eligible, you can contribute to an HSA. If the coverage is not a QHDHP, or you are enrolled in any other disqualifying coverage (such as a Health FSA), you cannot contribute to an HSA. Now, whether or not an employer will elect to make a contribution to an employee's HSA if they are not covered by that same employer's health plan is entirely up to them. This is addressed in Internal Revenue Code §54.4980G-3, Q/A# 7.*

VI. Qualified Expenses

Q23: Can you use HSA funds to pay insurance premium expenses?

A: *Yes, some insurance premiums are considered qualified medical expenses. You can make a qualified HSA distribution for the following insurance premiums:*

- *Health plan coverage while receiving Federal or State unemployment benefits*
- *COBRA premiums*
- *Medicare premiums*
- *Premiums for qualified long term care insurance (dollar limits may apply)*

Of course you can always make distributions from an HSA for ANY reason, but if the funds are used for anything other than a qualified medical expense, the funds are subject to normal income tax and a 20% penalty if you are under age 65. The rules for distributions are most easily found in IRS Publication 969. The documentation of qualified medical expense is found in IRS Publication 502.

VII. Comparability

Q24: Based on your slides, is "comparability" only applicable to non-Section 125 cafeteria plans?

A: *Correct, comparability only applies to contributions made outside a Section 125 Cafeteria Plan, while nondiscrimination rules apply to contributions made inside 125 plans. For more helpful information on this, please see IRS notice 2004-50, Q/A# 46-54 & 57-61.*

Q25: Can you please explain how you can make wellness contributions to an HSA and still pass the comparability test?

A: *You can't. Wellness based contributions are only allowed in a Section 125 Cafeteria Plan and therefore are subject to nondiscrimination and are not subject to comparability.*

VIII. Employee Engagement and Education

Q26: How can the benefit administrator/HR manager easily and continually encourage wellness to our employees?

A: *This is a very complex question and we really don't have adequate time and space here to fully address this issue. However, there are some basic recommendations you should follow:*

- ***Focus on simple steps first –*** *Ease your employees into this…and make sure they understand this is not just a "fad" but something you (and they) are committed to. Change takes time and if you hit them with too much at once, they may be overwhelmed. Starting off small and developing a series of smaller "wins" will be more meaningful than a huge change that fails to engage the employees.*
- ***Peer interaction works best –*** *People don't want to be TOLD what to do; but they will act on what they are inspired to do. Peer-to-peer encouragement and team based activities will resonate better with employees and are more likely to get them to desire improvement in their health and well-being. Access to things like a wellness coach or nutritionist may help, but it cannot be "forced" upon them.*
- ***Financial incentives help –*** *But make them meaningful. However, don't rely on them as the only source of "inspiration".*
- ***Year-round communication –*** *you must continuously reinforce your messages. If you are going to focus on wellness once a year, you are not going to achieve success.*
- ***Set goals and monitor them –*** *What is the employer looking to achieve? Don't just introduce wellness for the sake of having a wellness program. There should be a strategy and metrics must be set and monitored. Otherwise, how do you know if you are making a difference?*
- ***Don't rely just on tests –*** *Health Risk Assessments and Biometric Screens can be important health tools, especially in understanding your overall group health, but they are NOT a wellness program. They are simply a measuring tool – by themselves,*

they do nothing to promote improvement in health and well-being. You must take steps to engage your employees in caring enough about their own health to take actions – to eat better, to exercise more, etc. No test will do that…

Q27: How can we encourage our employee's to contribute to their HSA? We currently have one employee doing so out of fifteen.

A: *Make it easy. Make sure you have provided an easy method for them to contribute. Did you provide them with a simple way to elect pre-tax contributions through payroll deduction? Did you adequately explain how they can contribute throughout the year? Second, you need to make sure you have provided solid education to the employees (and their spouses) as to why they should contribute. In nearly every case we have ever seen, low participation in employee contributions is a direct indication that the employees have not been provided adequate education about their HSA. Through direct and on-going communication of the benefits to contributing to their HSA, you will see a significant increase in participation. Please use our free Benefit Communication Toolkits to help you with achieving this success.*

Q28: What can you do to continue to education employees and their families throughout the year? Any suggestions?

A: *We provide our comprehensive Benefit Communication Toolkits free to all our partners and employers to address this very issue. These toolkits provide employers and partners with turnkey systems to design, implement and deploy a comprehensive, year-round communication and education system.*

Q29: How do you overcome the objection that HSA plans are only for young healthy people?

A: *A lot of materials have been published on this very topic, but we find that it is easily addressed with educating the enrollees regarding the benefits of an HSA. However, the most important thing to keep in mind is that you need to make sure that the education actually resonates with the audience. For this reason, we highly recommend that an employer use "people like me" scenarios with their own plan design and premiums to illustrate how an HSA may benefit all of the different audiences. Our Benefits Communication Toolkits actually cover this in detail.*

Q30: What is the extent of responsibility for an employer to communicate employees' rights on the HSA at termination (or if the employer drops the HSA benefit program)?

A: *There are none. The HSA is an individually owned trust account, owned by the accountholder. The account itself is not part of the employer benefit program and you have no responsibility to communicate anything with regard to the actual HSA. HSAs are also not subject to COBRA or any other post employment administration.*

IX. Healthcare Reform

Q31: Looking forward on health care reform, what does the future hold for HSA plans?

A: *We have recently drafted a Perspectives article on this topic. [Read article].*

X. Misc.

Q32: When you mention establishment, are you referring to the establishment of the HDHP, or the establishment of the HSA?

A: *Establishment refers to the establishment date of the HSA. This is the date the HSA is legally established according to the trust laws in the state that the HSA is governed under. No qualified distributions are allowed from the HSA prior to this date, regardless of when the HDHP coverage began or when the expense was incurred. Please see IRS Notice 2008-59, Q/A# 38-41 for more information.*

Q33: Does an HSA need a plan document?

A: *If the HSA is being offered structured through a Section 125 Cafeteria Plan, an HSA amendment to the 125 plan document is required. Otherwise, there are no plan document requirements for HSAs.*

Q34: In your experience, what is the typical premium differential that would drive more people to the HSA?

A: *That depends. Every scenario is different, but there are two primary factors beyond the premium savings that will make someone choose the HSA:*

1. ***Employer Contributions –*** *Employees like to see that the employer has "skin in the game". Most employees have no clue as to the real cost to the employer for benefits since the employer normally covers a very significant portion of the premium costs, so the employees never "see" it. However, an employer contribution is VERY visible to them. If the employer were to adjust their premium contribution to offset an HSA contribution (so that it is cost neutral), the positive impact in employee perception is amazing.*
2. ***Explanation of tax savings –*** *Most employees don't have a solid understanding of taxes and they really don't understand how their HSA can save them thousands each year in taxes. Even if the premium was equal between the HDHP and a traditional plan, a strong case can be made for the HDHP if you factor in the tax savings!*

Q35: Does an Employee's HSA receive interest?

A: *Yes, HSAs can receive interest. Some administrators do not pay interest, but UMB does.*

Q36: Do you find that employees defer reimbursements from the HSA until they retire to take the money out tax-free?

> ***A:*** *While we cannot know for sure if someone is doing this (since we do not know if they are incurring healthcare expenses), we can tell you that this practice is very common. In fact, a large percentage of our accountholders contribute year after year without making any distributions. UMB regularly studies account spending behaviors and have classified about 30% of our accountholders as "savers", meaning that they spend little or nothing out of their accounts. It is likely safe to assume that a significant portion of these accountholders actually do incur healthcare expenses at some point, so you can reasonably assume that a high percentage of these people are doing just what you have said. While the decision to do this is undoubtedly based on many factors (age, health, ability to pay from other funds, etc.) it can be a very powerful source of tax-free money for people in retirement.*

Q37: If a HDHP is on a plan year deductible how does that work with an HSA? Is the HSA also on the plan year deductible or calendar year?

> ***A:*** *Contributions to HSAs are based upon the calendar year, regardless of if the HDHP plan year is the calendar year or not. A person's ability to contribute to their HSA is determined by their own circumstances (when they file their taxes) for eligibility, maximum contribution limits, etc.*

Q38: When an employee terminates and takes the HSA with them, can they use it in the future as a standalone account with a different (non HDHP)?

> ***A:*** *HSAs are portable and are owned by the accountholder. They can continue to contribute to that account for as long as they remain eligible to contribute (covered by a QHDHP, not enrolled in Medicare or other disqualifying coverage, and not claimed as someone else's tax dependent). Regardless of their ability to contribute, they can always use their HSA funds any time in the future.*