

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 2257

4
5 By: Representative Ferguson

For An Act To Be Entitled

9 "AN ACT TO BE KNOWN AS THE ARKANSAS MEDICAL CARE SAVINGS
10 ACCOUNT ACT OF 1997 ; AND FOR OTHER PURPOSES."

Subtitle

13 "AN ACT TO BE KNOWN AS THE ARKANSAS
14 MEDICAL CARE SAVINGS ACCOUNT ACT OF
15 1997 ."

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Short title. This act may be cited as the "Arkansas Medical
21 Care Savings Account Act of 1997."

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23 SECTION 2. Definitions. As used in this act, unless it clearly appears
24 otherwise, the following definitions apply:

25 (1) "Account administrator" means:

26 (A) a state or federally chartered bank, savings and loan
27 association, credit union, or trust company;

28 (B) a health care insurer;

29 (C) a certified public accountant licensed to practice in this
30 state; or

31 (D) an employer if the employer has a self-insured health plan
32 under ERISA.

33 (2) "Account holder" means an individual who is a resident of this state
34 and who establishes a medical care savings account or for whose benefit the
35 account is established.

36 (3) "Dependent" means the spouse of the employee or account holder or a

1 child of the employee or account holder if the child is:

2 (A) under twenty-three (23) years of age and enrolled as a full-
 3 time student at an accredited college or university or is under nineteen (19)
 4 years of age;

5 (B) legally entitled to the provision of proper or necessary
 6 subsistence, education, medical care, or other care necessary for the health,
 7 guidance, or well-being of the child and is not otherwise emancipated, self-
 8 supporting, married, or a member of the armed forces of the United States; or

9 (C) mentally or physically incapacitated to the extent that the
 10 child is not self-sufficient.

11 (4) "Eligible medical expense" means an expense paid by the employee or
 12 account holder for medical care defined by 26 U.S.C. 213(d) for the employee
 13 or account holder or a dependent of the employee or account holder.

14 (5) "Employee" means an employed individual for whose benefit or for the
 15 benefit of whose dependents a medical care savings account is established. The
 16 term includes a self-employed individual.

17 (6) "ERISA" means the Employee Retirement Income Security Act of 1974,
 18 Public Law 93-406.

19 (7) "Health care insurer" means any insurance company, hospital and
 20 medical services corporation, or health maintenance organization issuing or
 21 delivering health benefit plans in this state and subject to any of the
 22 following laws:

23 (A) the Arkansas Insurance Code, Arkansas Code 23-60-101, et seq.;

24 (B) Arkansas Code 23-75-101, et seq. pertaining to hospital and
 25 medical service corporations;

26 (C) Arkansas Code 23-76-101, et seq. pertaining to health
 27 maintenance organizations;

28 (D) any successor law of the foregoing; and

29 (E) any self-funded program for governmental employees.

30 (8) "Medical care savings account" or "account" means an account
 31 established with an account administrator in this state pursuant to Section 3
 32 of this act.

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34 SECTION 3. Establishment of account.

35 (a) An employer, except as otherwise provided by statute, contract, or
 36 a collective bargaining agreement, may establish a medical care savings

1 account for an employee of the employer or for a dependent of the employee.

2 (b) An individual who is a resident of this state may establish a
3 medical care savings account for that individual or for a dependent of the
4 individual.

5 (c) Before making any contributions to an employee's account, an
6 employer shall inform an employee in writing of the state and federal tax
7 status of contributions made pursuant to this chapter.

8 (d) Upon agreement between an employer and an employee, an employee may
9 have the employer contribute to the employee's medical care savings account,
10 to a health insurance policy or program for the employee, or to both the
11 account and the policy or program.

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13 SECTION 4. Tax exemption - conditions.

14 (a) Except as provided in this section, the amount of principal provided
15 for in subsection (2) contributed annually by an employee or account holder to
16 an account and all interest or other income on that principal may be excluded
17 from the income of the employee or account holder for the purpose of computing
18 Arkansas Income Tax liability, as long as the principal and interest or other
19 income is contained within the account or withdrawn only for payment of
20 eligible medical expenses or for the long-term care of the employee or account
21 holder or a dependent of the employee or account holder. Any part of the
22 principal or income, or both, withdrawn from an account may not be excluded
23 under subsection (2) and this subsection if the amount is withdrawn from the
24 account and used for a purpose other than an eligible medical expense or the
25 long-term care of the employee or account holder or a dependent of the
26 employee or account holder.

27 (b) An employee or account holder may exclude as an annual contribution
28 in one (1) year no more than three thousand dollars (\$3,000). There is no
29 limitation on the amount of funds and interest or other income on those funds
30 that may be retained tax-free within an account.

31 (c) An employee or account holder may in one (1) year deposit into an
32 account more than the amount excluded pursuant to subsection (2) if the
33 exemption claimed by the employee or account holder in the year does not
34 exceed three thousand dollars (\$3,000). An employee or account holder who
35 deposits more than three thousand dollars (\$3,000) into an account in a year
36 may exclude from the employee's or account holder's income for the purpose of

1 computing Arkansas Income Tax liability in a subsequent year any part of three
2 thousand dollars (\$3,000) per year not previously excluded.

3 (d) The transfer of money in an account owned by one employee or account
4 holder to the account of another employee or account holder within the
5 immediate family of the first employee or account holder does not subject
6 either employee or account holder to tax liability under this section. Amounts
7 contained within the account of the receiving employee or account holder are
8 subject to the requirements and limitations provided in this section.

9 (e) The employee or account holder who establishes the account is the
10 owner of the account. An employee or account holder may withdraw money in an
11 account and deposit the money in another account with a different or with the
12 same account administrator without incurring tax liability.

13 (f) The amount of a disbursement of any assets of a medical care savings
14 account pursuant to a filing for protection under the United States Bankruptcy
15 Code, 11 U.S.C. 101 to 1330, by an employee or account holder does not subject
16 the employee or account holder to tax liability.

17 (g) Within thirty (30) days of being furnished proof of the death of the
18 employee or account holder, the account administrator shall distribute the
19 principal and accumulated interest or other income in the account to the
20 estate of the employee or account holder.

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22 SECTION 5. Withdrawal of funds from account for purposes other than
23 medical expenses and long-term care.

24 (a) An employee or account holder may withdraw money from the
25 individual's medical care savings account for any purpose other than an
26 eligible medical expense or the long-term care of the employee or account
27 holder or a dependent of the employee or account holder only on the last
28 business day of the account administrator's business year. Money withdrawn
29 from an account pursuant to this subsection must be taxed as ordinary income
30 of the employee or account holder.

31 (b) If the employee or account holder withdraws money from the account
32 other than for eligible medical expenses or long-term care or other than on
33 the last business day of the account administrator's business year, the
34 administrator shall withhold from the amount of the withdrawal and, on behalf
35 of the employee or account holder, pay as a penalty to the Department of
36 Revenue an amount equal to ten percent (10%) of the amount of the withdrawal.

1 Payments made to the department pursuant to this section must be deposited in
2 the general fund. Money withdrawn from an account pursuant to this subsection
3 must be taxed as ordinary income of the employee or account holder.

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5 SECTION 6. Administration of account.

6 (a) An account administrator shall administer the medical care savings
7 account from which the payment of claims is made and has a fiduciary duty to
8 the person for whose benefit the account is administered.

9 (b) Not more than thirty (30) days after an account administrator begins
10 to administer an account, the account administrator shall notify in writing
11 each employee and account holder on whose behalf the account administrator
12 administers an account of the date of the last business day of the account
13 administrator's business year.

14 (c) An account administrator may use funds held in a medical care
15 savings account only for the purpose of paying the eligible medical expenses
16 of the employee or account holder or the employee's or account holder's
17 dependents, purchasing long-term care insurance or a long-term care annuity
18 for the long-term care of the employee or account holder or a dependent of the
19 employee or account holder, or paying the expenses of administering the
20 account. Funds held in a medical care savings account may not be used to pay
21 medical expenses or for a long-term care insurance policy or annuity of the
22 employee or account holder or a dependent of the employee or account holder
23 that is otherwise reimbursable, including medical expenses payable pursuant to
24 an automobile insurance policy, workers' compensation insurance policy or
25 self-insured plan, or another health coverage policy, certificate, or
26 contract.

27 (d) The employee or account holder may submit documentation of eligible
28 medical expenses paid by the employee or account holder or a dependent of the
29 employee or account holder in the tax year to the account administrator, and
30 the account administrator shall reimburse the employee or account holder from
31 the employee's or account holder's account for eligible medical expenses.

32 (e) The employee or account holder may submit documentation of the
33 purchase of long-term care insurance or a long-term care annuity for the
34 employee or account holder or a dependent of the employee or account holder to
35 the account administrator, and the account administrator shall reimburse the
36 employee or account holder from the employee's or account holder's account for

1 payments made for the purchase of the insurance or annuity. The account
2 administrator may also provide for a system of automatic withdrawals from the
3 account for the payment of long-term care insurance premiums or an annuity.

4 (f) If an employer makes contributions to a medical care savings account
5 on a periodic installment basis, the employer may advance to an employee,
6 interest free, an amount necessary to cover medical expenses incurred that
7 exceeds the amount in the employee's medical care savings account at the time
8 the expense is incurred if the employee agrees to repay the advance from
9 future installments or when the employee ceases employment with the employer.

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11 SECTION 7. False claims prohibited - Penalty.

12 (a) A person may not knowingly prepare or cause to be prepared a false
13 claim, receipt, statement, or billing to justify the withdrawal of money from
14 an account.

15 (b) A person who violates subsection (1) by preparing or causing the
16 preparation of a false claim, receipt, statement, or billing in an amount not
17 exceeding three hundred dollars (\$300) is guilty of theft and upon conviction
18 shall be fined an amount not to exceed five hundred dollars (\$500) or be
19 imprisoned in the county jail for a term not to exceed six (6) months, or
20 both. A person convicted of a second offense shall be fined five hundred
21 dollars (\$500) or be imprisoned in the county jail for a term not to exceed
22 six (6) months, or both. A person convicted of a third or subsequent offense
23 shall be fined one thousand dollars (\$1,000) and be imprisoned in the county
24 jail for a term of not less than thirty (30) days or more than six (6) months.

25 (c) A person who violates subsection (1) by preparing or causing the
26 preparation of a false claim, receipt, statement, or billing in an amount of
27 three hundred dollars (\$300) or more is guilty of theft and upon conviction
28 shall be fined an amount not to exceed fifty thousand dollars (\$50,000) or be
29 imprisoned in the state prison for a term not to exceed ten (10) years, or
30 both.

31 (d) Amounts involved in thefts committed pursuant to a common scheme or
32 the same transaction, whether from the same person or several persons, may be
33 aggregated in determining the value of the amount withdrawn from an account in
34 violation of this section.

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36 SECTION 8. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 9. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 10. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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