

## Considering an HSA? Learn the Basics Webinar Q&A

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*The following questions were asked during the two webinar sessions in July 2019:*

### **HSA Eligibility**

**Q: If a husband and wife are on separate insurance plans:**

- The husband has a standard health FSA with single traditional group health insurance, and
- The wife has single coverage under an HSA qualified HDHP and wants to contribute to an HSA

**Can the wife contribute to an HSA or does that fact that the husband contributes to a standard health FSA disqualify her from contributing to an HSA?**

A: If a husband has a standard health FSA, this would disqualify the wife from contributing to an HSA. By legal definition, the standard health FSA dollars can be used for the employee, the employee's spouse and/or dependents, including adult children to age 26. Even if the intent is that the husband would only use his FSA on his own claims – because he is ELIGIBLE to use his FSA dollars on his wife, it causes the wife to be disqualified. The wife would not be eligible to open an HSA, contribute to an HSA, or receive employer contributions to the HSA.

**Q: Is an individual not eligible to contribute to an HSA if they are enrolled in Medicare, or if they are entitled to Medicare?**

A: Individuals are not eligible to contribute to an HSA as of when they become entitled to Medicare. According to Notice 2004-50, 2004-2 CB 196, 07/23/2004, IRC Sec(s). 223: "The term "entitled to benefits under" Medicare means both eligibility and enrollment in Medicare."

So, for those individuals who have already applied for or are receiving Social Security benefits, they will be automatically enrolled in Medicare Part A. For these individuals, the date they become "entitled", "enrolled", and "eligible" are all the same date.

For those who are working beyond age 65 and who have not yet applied for Social Security benefits would need to file an application to become entitled to Part A benefits. These individuals can continue to contribute to an HSA until they apply. At that point, they would become both "entitled" and "enrolled".

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1350 Deming Way, Suite 300  
Middleton, WI 53562-4640  
P: 800 346 2126 | 608 831 8445  
F: 608 831 4790  
An employee-owned company  
[www.ebcflex.com](http://www.ebcflex.com)

## Contributions

**Q: Can an employee continue to contribute even though a spouse may be covered by Medicare?**

A: Yes, an employee is eligible to contribute (as long as they are the one that is enrolled in an HSA qualified HDHP with no disqualifying coverage) even if their spouse is enrolled in Medicare. This is because Medicare only covers the spouse and is not considered disqualifying coverage for the employee. If the employee is covered by a family plan (including an employee/spouse plan), the employee can contribute up to the family contribution limit. The spouse with Medicare would not be able to make contributions into an HSA in his/her name.

**Q: Is the catch-up contribution limited to an employee at age 55, or is their spouse eligible as well?**

A: The HSA catch-up contribution is available to any HSA eligible individual age 55 or older. If both spouses of a married couple are HSA eligible and are age 55 or older, they both are eligible to make a \$1,000 catch-up contribution, provided they each have their own HSA and make the catch-up contributions to each respective account.

## Employer Contributions

**Q: Employer contributes 50% of the deductible over 26 pay periods. Does an employee have the option of not contributing and only receiving the employer contributions? Can the employee continue to not contribute and allow the employer contributions roll over?**

A: Yes, an employee does have the option to not contribute to an HSA. If their employer makes contributions and the employee is eligible for the contributions, the employee would have to establish an HSA in order to receive these contributions. In future years, if the employer continues to make contributions, the employee would have access to those in addition to any unused funds from prior years, which would roll over year to year if the employee does not take distributions for some or all of the HSA funds.

*Note: If an employer establishes their contributions on a matching basis, the employee would have to contribute in order to receive the employer match.*

**Q: Can an employer contribute to an HSA for their employee if the employee is on the spouse's HDHP?**

A: This is not required, however, the employer could elect to do this and should clearly document what is required in order for an employee to be eligible for HSA contributions. For example, the employer's policy should list what documentation is required to show that the employee is actively enrolled on the spouse's HSA qualified HDHP and maintains that coverage throughout the year.

The employer should also identify if they will only make contributions based on an employee being enrolled in a spouse's plan, or if they would make HSA contributions for an employee enrolled in an individual plan.

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The contributions made by the employer to all employees (including those who are enrolled in the employer's health plan as well as those not) must be either comparable or made under a cafeteria plan arrangement (and therefore, subject to nondiscrimination testing).

### **Treatment of HSA after Death**

#### **Q: How is an HSA treated after the death of the account holder?**

A: In the case of the death of an account holder, any unused funds are transferred to the account beneficiary.

If the beneficiary is a **spouse**, the spouse becomes the account holder and the funds are not taxed. If the spouse does not have an HSA in their name, they can establish one and have the funds transferred. If the spouse previously had their own HSA, funds could be transferred from one account to the other (in order to maintain only one account). These transfers are completed as a trustee-to-trustee transfer and would not be subject to contribution limits. The surviving spouse can only make additional contributions into the account if they remain covered by an HSA qualified HDHP. If they are not enrolled in an HSA qualified HDHP, they could use the dollars tax free to pay for any qualifying medical expenses for themselves and any tax dependent children.

If the beneficiary is **not a spouse**, the HSA will no longer be treated as an HSA. The fair-market-value of the account is passed onto your named beneficiary. The beneficiary receives these funds as taxable income. The taxable amount can be reduced by any qualified medical expenses that were incurred by the deceased and paid by the beneficiary within one year of death. The beneficiary will be eligible to include this in a deduction for estate taxes. The IRS Form 8889 would be completed to report this distribution.

If a beneficiary is **not named**, the value of your account is liquidated and transferred to your estate. You can also name your estate as your HSA beneficiary. In these cases, the fair-market-value of your account is included on the deceased HSA owner's final income tax return. The value of your HSA is not reduced based on qualified medical expenses that are paid within one year of death if the funds are going to the estate.

#### **Q: What if the beneficiary of the HSA is a child, is it considered tax free or subject to tax on fair market value?**

A: Per [Notice 2004-2](#) (Q&A 31), IRS deems that after the death of an account holder, if the beneficiary is anyone other than a spouse, the HSA ceases to be an HSA and the beneficiary must claim income in the amount of the fair market value of the account. This would include if the beneficiary of the HSA is one of the children of the account holder.

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