Webinar Title Q&A – the following questions were asked during the two- Introduction to HSAs webinar sessions in August 2017

Q: Can you discuss maintenance drugs with zero copay?

A: The HDHP will remain HSA qualified if the prescriptions with $0 copay are for preventive care. Any other prescription cost should apply to the deductible until the deductible is satisfied or the health plan would be considered disqualifying coverage.

Q: If an employer does not make employee contributions to HSA's, is the employer still subject to non-discrimination testing? Or is that only if there are employer contributions to employee HSAs?

A: All HSA contributions made through a cafeteria plan are subject to nondiscrimination testing. This would be true if the contributions are employee only, employer only or a combination of the two.

Q: If an employee realizes he is not going to remain eligible to contribute to an HSA, can he stop contributions mid-year?

A: Yes, employees can change their contributions to the HSA at any point in time.

Q: To clarify, IF someone is over 65 and NOT enrolled in Medicare they can participate and contribute to HSA, correct?

A: As long as the individual is not enrolled in any part of Medicare, they can continue to contribute to the HSA.

Q: As long as your child (under age 26) is a dependent you can pay for their expenses out of you HSA?

A: As long as your child is your income tax dependent, you can use HSA dollars tax free to pay for their expenses without penalty.

Q: Individuals turning 65 during the calendar year would need to prorate contributions for the year they turn 65. Correct? If so, what would be the impact if a spouse does not turn 65 during the same year?

A: The HSA accountholder will need to prorate their contributions in the year they turn 65 and enroll in Medicare. The contribution rule is based upon the accountholder. If the employee's spouse is not yet enrolled in Medicare and remains covered under a qualified HDHP, it may be possible for the spouse to open and contribute to an HSA in the spouse's name. It may be possible that they are already have an

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HSA open for the purposes of making the $1,000 catch up contribution that is permitted when you are over the age of 55.

Q: On slide 23 Catch-up contribution prorated is for age 55, right? Not 65

A: You are only required to prorate the catch up contribution in the year you turn 65 and become enrolled in Medicare. You can contribute the full catch up contribution in the year you turn 55.

Q: If employers contribute to employee HSA accounts and the employee is on FMLA leave, does the employer have to continue to make contributions, as they do with health care premiums?

A: The employer is only obligated to continue the health insurance plan during a FMLA. Technically the HSA is a bank account and not a health plan. However, the employer could choose to continue to make HSA contribution while the employee is on FMLA.

Q: At the end can you run through the dependents age 24 and older again? I thought I heard you say they can open their own savings account. Do they then have their own limits or do they have to stay below the family limit?

A: If an adult child is not an income tax dependent of the parent and they are covered under the parent's qualified HDHP, they can open their own HSA and are able to contribute the family maximum based upon the fact that they are covered under a family HDHP. What the adult contributes to their own HSA **will not** count against what the parent can contribute. So it is possible for the parent to have an HSA contribute the family limit and the adult child can have an HSA and contribute up to the family maximum.

Q: Can you review how much an employee, their spouse, and their adult child can contribute to their own HSA account, when they are covered under the Employee's HDHP?

A: It is possible for the parent to have an HSA and contribute the family limit and the adult child can have an HSA and contribute up to the family maximum. What the adult child contributes to their own HSA will not count against the limit of the parent. This assumes that they are all covered under the parent's qualified HDHP and the adult child is not an income tax dependent of the parent.

Q: Are individuals allowed to waive Medicare Part A coverage? I am aware they can waive Part B, but thought Part A enrollment was automatic and couldn't be waived.

A: Part A is automatic if you collect Social Security earlier than 65.

According to www.Medicare.gov "Some people get Medicare Part A (Hospital Insurance) and Medicare Part B (Medical Insurance) automatically and other people have to sign up for it. In most cases, it depends on whether you're getting Social Security benefits."

Q: Can an FSA account holder, who now wants to contribute to an HSA, be able to "change" their FSA account into a Limited Purpose FSA?

A: An individual cannot convert their regular Health Care FSA to a Limited Health Care FSA mid-cafeteria plan year because this is not a qualifying event. The employee can choose to enroll in the Limited Health Care FSA or decline enrollment in the Health Care FSA during open enrollment for the next cafeteria plan year. It is recommended that the cafeteria plan and the health insurance plan renew at the same time where possible for this reason.

Q: Post-deductible FSA - please explain what that is in more detail - when is it used and why

A: The Post-deductible FSA is structured so that it begins as a Limited Health Care FSA until the participant can show evidence that they have met the minimum required HDHP deductible (2017-$1,300 Single or $2,600 Family) and then the account switches from that point forward back to the regular Health Care FSA. This can be used in a cafeteria plan as an HSA compatible Health Care FSA.

Q: Full contribution rule - so if someone starts coverage 1/1/17 but puts in all their HSA money on 12/1/17, there is no problem - right?

A: Correct, if you have qualified HDHP coverage on 12/1/17 you can make the full annual contribution for 2017 based upon the coverage you have on that date and take the tax deduction in the year of the contribution. The contribution remains tax free as long as the individual remains on the qualified HDHP through the end of the next 2018 calendar year.

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Q: Can a parent transfer IRA money to their adult child's HSA account?

A: The IRA transfer can only happen from the IRA that is in the same name of the HSA accountholder. This must be a trustee to trustee transfer.

Q: You can't contribute more to your HSA than your HDHP deductible – correct?

A: As long as your health plan has the required minimum deductible, you can contribute to full annual contribution permitted under the law. For 2017 that is $3,400 Single and $6,750 Family, plus any eligible catch up contributions. This would be true even if the deductible is $1,300 and $2,700 respectively.

Q: An employee has an HSA checking account set up but is not contributing. We as the employer contribute on a quarterly basis is this ok to do?

A: The employer can establish the frequency for employer contributions. For purposes of any employee contributions, you should forward those on a more regular basis like per pay period or per month.

Q: If they have a 1st dollar co-pay before deductible for office visits does that qualify for a H.S.A.?

A: Generally co-pay arrangements for anything but preventive care prior to the minimum required HDHP deductible ($1,300 Single or $2,600 Family-2017) would be considered disqualifying coverage.

Q: We know that having money in a traditional health FSA (not limited purpose) can cause issues, but I have received conflicting information on something. I have been told that you cannot open an HSA account at all until the money is spent down. However, I have also been told that you can open the account, but simply just not contribute until the FSA money is spent down, although your employer can (e.g. if the employer seeds the account with a contribution). Can you please confirm what is correct?

A: If you have a regular Health Care FSA with a traditional runout period that does not impact HSA eligibility. For example, if I have a regular Health Care FSA for the time period 1/1/17-12/31/17 and I have a claims runout period that lasts until 3/31/18, I will be HSA eligible on 1/1/18 even if I don't completely exhaust my 2017 Health Care FSA balance until 3/31/18. The claims runout is merely an administrative period to clean up paperwork for the prior plan year and all expenses must be incurred in 2017 in my example. This also assumes that I do not enroll in the regular Health Care FSA for 2018 or I opt to enroll in the Limited Health Care FSA.

If you have the grace period, which extends the coverage period by 2 ½ months into the new plan year, whether or not you have a balance in your account on 12/31/17 will determine if the grace period is

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triggered and that will definitely have an impact on HSA eligibility. The grace period would delay your ability to open a HSA until after the grace period is over regardless of when you exhaust your FSA funds. That would include for purposes of the employer contributions as well as employee contributions.

Q: If an employee is age 65 and has Medicare A, is not receiving social security benefits; can the employer contribute to the HSA, as well as the employee?

A: No enrollment in Medicare Part A is considered disqualifying coverage and no further HSA contributions can be made by the employer or the employee.

Q: Example; husband and wife work for same employer. Husband takes family insurance to cover wife. Wife waives the insurance. Can husband open HSA to cover medical expenses for both husband and wife? Or does the wife need to open a HSA - even though she does not carry the health insurance?

A: The husband can open the HSA account and make contributions based upon the level of coverage he has at the time. If he has family coverage he can deposit the maximum for family coverage and if he has single coverage he can deposit the maximum for single coverage. In either case, the distribution from the HSA can be used for his expenses or the expenses for the spouse. It is not a requirement that she be on his health plan in order to use the HSA dollars for her expenses. This really only would impact the maximum you can contribute.

Q: What amount is an employee eligible to contribute if only eligible for an HSA part of the year (June to December) and had a FSA part of the year (Jan - May)? For example Jan claimed full amount of FSA benefit then became eligible for HSA eligible plan as of June of the same year.

A: The only way "Jan" will be eligible on June 1st is if the cafeteria plan ended on 5/31 or Jan terminated employment on 5/31 from another employer. Just to be clear, the coverage period of the Health Care FSA runs for the duration of the cafeteria plan year regardless of when the FSA funds are exhausted. So assuming that Jan is truly HSA eligible on June 1st and maintains HDHP coverage through the end of the year she potentially can contribute the full contribution for the year based upon the full contribution rule, and the coverage she has on 12/1. This also assumes that she will remain HSA eligible for all of the next calendar year and if she does not she will be subject to tax penalties for the excess contributions in the prior year. If she wants to err on the side of being conservative, she could opt to only contribute 7/12 of the annual contribution for the year based upon the number of months she actually had HDHP coverage, if she is uncertain if she will remain HSA eligible for the entire next calendar year.

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Q: Can an employer contribute different amounts for different types of employees (hourly vs. salaried)?

A: This may be possible under a cafeteria plan as long as it otherwise passes the nondiscrimination testing. Outside a cafeteria plan, this would not be a permissible variation and the employer would be subject to the comparability rules excise taxes.

Q: I have a dependent who graduates from college this year. I will be providing more than half her support this year and she is still on my high deductible insurance. How long can I keep her on my HSA?

A: You can continue to use HSA dollars for her expenses as long as she remains your income tax dependent. She can stay on your health insurance plan until she is 26 regardless of income tax dependent status however based upon an Affordable Care Act rule.

Q: What communication or PR materials does EBC provide employers to use with their employees before the start of each new HSA year?

A: We provide a variety of resources for the employer and participant that are posted to their portal. This would include details of how the HSA works with the benefits card, eligible expenses, limited health care FSA information and details regarding overall HSA eligibility.

Q: If I have an adult child who transitions to her own coverage mid-year, when do I have to reduce my HSA contributions from the family to the single maximum?

A: You would prorate based upon the number of months you have family coverage vs. single coverage and add the two together to calculate your contribution limit for the year.

Q: Why are catch up $1,000 contributions pro-rated when turning age 65? Are not catch up allowed at age 65?

A: This is just part of the regulation that you are no longer eligible to make any contributions once you turn 65 and enroll in Medicare. IRS Notice 2004-50 however, confirms that HSA-eligible individuals who are age 65 or older and who are eligible for Medicare **but are not enrolled** in Medicare Part A or Part B may make HSA catch-up contributions.

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Q: If I turn 65 in October 2018, can I contribute to an HSA until I become eligible for Medicare, or am I ineligible to contribute for the full calendar year? If I continue to stay on my high deductible employer's insurance for the balance of the year can I continue to contribute to an HSA?

A: Once you become enrolled in Medicare you are no longer eligible to make contributions to the HSA. You are however, eligible to make a prorated contribution up to that point.

Q: Why doesn't Medicare supplement insurance premium count towards HSA distributions?

A: According to IRS Code §223, this is not an eligible premium.

Q: Can you explain how the W-2 shows the employer HSA contributions and the employee contributions HSA contributions again? Why are employee contributions considered as employer contributions on the W-2?

A: The employer contribution and any pre-tax employee contributions will show up on the W-2 in Box 12 coded as a W as a lump sum total. This essentially is because the employer contribution to the HSA is pre-tax and the employee payroll deductions are pre-tax and it is the way the employer notifies the IRS that the tax break was already taken through an employer sponsored plan.

Q: If you are over 55, and become eligible on December 1 for HDHP, is it OK to contribute the $1000 catch up amount?

A: Yes. IRS guidance allows an individual that becomes 55 at any time in the tax year to make the full $1,000 catch up contribution for that year.

Q: Does this mean you are not automatically enrolled in Medicare A if you are not collecting Social Security income benefits?

A: An individual that is age 65 or older and is not receiving Social Security income benefits does not get automatically enrolled in Medicare Parts A&B by the Social Security Administration. If that individual does not voluntarily enroll in Medicare, they are not entitled to Medicare and would remain HSA eligible.

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Q: If you have a pre-tax payroll deduction for HSA contributions, can you change your pre-tax payroll deduction at any time during the year (and/or as many times as you want) as long as the total contribution doesn't go over the maximum?

A: The pre-tax election for the HSA contribution is not subject to the normal permitted election change rules of the cafeteria plan. The employee can change their election any time during the year, so long as the change is for a prospective payroll and does not cause them to exceed the annual limit.

Q: If the employee contributes on their own can they put in money as they want, just so they don't go over the limit?

A: Yes, the HSA contributions can be made pre-tax from payroll if the employer allows that method, post-tax by the account holder or contributions from their spouse or any other party, such as an employer. The combined total of all the contributions can't exceed the annual maximum for the type of HDHP coverage (e.g., single or family).

Q: As an employer, we have a health FSA in place. If we put in place an HSA with a HDHP, do we need to get rid of the health FSA?

A: No. You can still offer a Health Care FSA, but any employee that elects the health FSA can't make HSA contributions. You can also add the Limited Health FSA that can be used by those that are enrolled in the HSA.

Q: Can a distribution of HSA to a beneficiary after death be turned into an HSA for the beneficiary?

A: If the beneficiary is the account holder's surviving spouse, the spouse can open an HSA account and transfer the money tax free. If the beneficiary is not a surviving spouse, the HSA ceases to be an HSA upon death and the funds, less funds used by the beneficiary to pay eligible medical care expenses of the deceased account holder within one-year of death, become taxable income to the beneficiary.

Q: Once no longer eligible for HDHP can the HSA account remain open, unused?

A: Yes. The HSA account is a savings account and can be contributed to while eligible to make the contributions – just like a regular bank account gets opened and the account holder makes contributions for a period of time. Once the individual is ineligible to make HSA contributions, the account remains open, even though no contributions are being made, and can be used to pay for eligible expenses with tax free distributions.