SENATE BILL NO. 854

January 28, 1998, Introduced by Senator SHUGARS and referred to the Committee on Health Policy and Senior Citizens.

A bill to permit the establishment and maintenance of health benefit accounts; to provide penalties and remedies; to provide for certain tax deductions; to prescribe the requirements of and restrictions on health benefit accounts; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   Sec. 1. This act shall be known and may be cited as the

2 "health benefit account act".

3   Sec. 2. As used in this act:

4   (a) "Account administrator" means any of the following:

5   (*i*) A state chartered bank, savings and loan association,

6 credit union, or trust company authorized to act as fiduciary in

7 this state or a national banking association or federal savings

8 and loan association or credit union authorized to act as

9 fiduciary in this state.

1   (*ii*) An insurance company authorized to do business in this
2 state under the insurance code of 1956, 1956 PA 218, MCL 500.100
3 to 500.8302, or a health care corporation operating under the
4 nonprofit health care corporation reform act, 1980 PA 350, MCL
5 550.1101 to 550.1704.

6   (*iii*) A broker-dealer, commodity issuer, or investment advi-
7 sor registered pursuant to the uniform securities act, 1964 PA
8 265, MCL 451.501 to 451.818, or a federal investment company reg-
9 istered under the investment company act of 1940, title I of
10 chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to
11 80a-64.

12   (*iv*) A third party administrator with a current certificate
13 of authority issued pursuant to the third party administrator
14 act, 1984 PA 218, MCL 550.901 to 550.962.

15   (*v*) A certified public accountant licensed to practice in
16 this state pursuant to article 7 of the occupational code, 1980
17 PA 299, MCL 339.701 to 339.716.

18   (b) "Account holder" means the resident individual who
19 establishes a health benefits account.

20   (c) "Deductible" means the total deductible for an account
21 holder, the family of the account holder, and all of the depen-
22 dents of that account holder for a calendar year.

23   (d) "Dependent" means the spouse of an account holder or a
24 child of an account holder if the child is any of the following:

25   (*i*) Under 23 years of age and enrolled as a full-time stu-
26 dent at an accredited college or university or under 19 years of
27 age.

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1   (*ii*) Legally entitled to the provision of proper or

2 necessary subsistence, education, medical care, or other care

3 necessary for his or her health, guidance, or well-being and not

4 otherwise emancipated, self-supporting, married, or a member of

5 the armed forces of the United States.

6   (*iii*) Mentally or physically incapacitated to the extent

7 that he or she is not self-sufficient.

8   (e) "Domicile" means a place where a person has his or her

9 true, fixed, and permanent home and principal establishment to

10 which, whenever absent therefrom, he or she intends to return.

11 Domicile continues until another permanent establishment is

12 established. An individual who lives in this state at least 183

13 days during the tax year or more than 1/2 the days during a tax

14 year of less than 12 months is considered domiciled in this state

15 for the tax year.

16   (f) "Eligible medical expense" means an expense paid by the

17 taxpayer for medical care described in section 213(d) of the

18 internal revenue code of 1986.

19   (g) "ERISA" means the employer retirement income security

20 act of 1974, Public Law 93-406, 88 Stat. 829.

21   (h) "Health benefit account" or "account" means an account

22 established in this state to pay the eligible medical expenses of

23 an account holder, the family of an account holder, or the depen-

24 dents of an account holder.

25   (i) "High deductible health plan" means a health coverage

26 policy, certificate, or contract or health plan that provides for

27 payments for covered benefits that exceed the deductible and that

1 is purchased by an account holder. The deductible for a high

2 deductible health plan shall be not less than $1,000.00 and not

3 more than $3,000.00.

4   (j) "Resident" means an individual domiciled in the state.

5   Sec. 3. (1) For the 1998 tax year, and each tax year after

6 the 1998 tax year, a resident individual may establish a health

7 benefit account for himself or herself, for his or her depen-

8 dents, or for his or her family with an account administrator.

9   (2) To qualify to establish a health benefit account, an

10 individual shall meet all of the following criteria:

11   (a) Make contributions to a health benefit account for the

12 tax year in which the account is established not to exceed

13 $3,000.00.

14   (b) Purchase or assure the purchase of a high deductible

15 health plan for the benefit of the account holder, for his or her

16 family, or for his or her dependents for each tax year in which

17 the account is open.

18   (c) Have no coverage under any health coverage policy, cer-

19 tificate, or contract or self-funded plan other than a high

20 deductible health plan or other plan purchased with money from an

21 account.

22   Sec. 4. (1) An account administrator shall administer the

23 health benefit account from which the payment of eligible medical

24 expenses are made and has a fiduciary duty to the person or per-

25 sons for whose benefit the account administrator administers an

26 account.

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1   (2) The account administrator shall utilize the funds held

2 in a health benefit account solely for the purpose of paying the

3 eligible medical expenses of the account holder, his or her

4 family, or his or her dependents or to purchase a high deductible

5 health plan or other health coverage policy, certificate, con-

6 tract, or plan.

7   (3) Funds held in an account shall not be used to pay medi-

8 cal expenses of the account holder, his or her family, or his or

9 her dependents that are otherwise reimbursable including but not

10 limited to medical expenses payable under an automobile insurance

11 policy, worker's compensation insurance policy or self-insured

12 plan, or another health coverage policy, certificate, or

13 contract.

14   (4) To utilize the money in a health benefit account to pay

15 medical expenses, an account holder shall submit documentation of

16 medical expenses or high deductible health plan premiums paid by

17 the account holder in the tax year to the account administrator,

18 and the account administrator shall reimburse the account holder

19 from the account holder's account for eligible medical expenses.

20   Sec. 5. (1) To qualify for the tax deduction allowed under

21 section 30(1)(v) of the income tax act of 1967, 1967 PA 281, MCL

22 206.30, an account holder shall withdraw money from his or her

23 health benefit account only for a purpose described in

24 section 4(2) and subject to the limitations in section 4(3).

25   (2) Subject to subsection (3), if an account holder with-

26 draws money for any purpose other than a purpose described in

27 section 4(2), the account administrator shall withhold from the

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1 amount of the withdrawal and on behalf of the account holder

2 shall pay a penalty to the department of treasury equal to 10% of

3 the amount of the withdrawal and the account holder shall include

4 the amount of the withdrawal as income for the tax year in which

5 the withdrawal was made as provided in section 30(1)(v) of the

6 income tax act of 1967, 1967 PA 281, MCL 206.30.

7   (3) The amount of a disbursement of any assets of a health

8 benefit account pursuant to a filing for protection under title

9 11 of the United States code, 11 U.S.C. 101 to 1330, by an

10 account holder or person for whose benefit an account was estab-

11 lished is not considered a withdrawal for purposes of this

12 section.

13   (4) Upon the death of an account holder, the account admin-

14 istrator shall distribute the principal and accumulated interest

15 of the health benefit account to the estate of the account

16 holder.

17   Enacting section 1. This act does not take effect unless

18 all of the following bills of the 89th Legislature are enacted

19 into law:

20   (a) Senate Bill No. 157.

21   (b) Senate Bill No. 332.

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