

**40-2261. Employer providing certain health insurance coverage may offer cafeteria plan; employer not restricted in providing such benefits or coverage; definitions.** (a) An employer that provides health insurance coverage for which any portion of the premium is payable by an employee may also offer a premium only cafeteria plan as permitted under 26 U.S.C. section 125. The provisions of this subsection shall not apply to any employer who offers health insurance through any self-insured or self-funded group health benefit plan of any type or description.

(b) No provision of this section shall prohibit or otherwise restrict an employer's ability to either provide a group health benefit plan or create a premium only cafeteria plan with defined contributions and in which the employee purchases the policy.

(c) For the purposes of this section:

(1) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract and a plan provided by a municipal group-funded pool or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. Health benefit plan also includes a cafeteria plan authorized by 26 U.S.C. section 125. The cafeteria plan may offer the option of paying all or any portion of the health insurance premium or the option of receiving health insurance coverage through a high deductible health plan and the establishment of a health savings account. In order for an eligible individual to obtain a high deductible health plan through the cafeteria plan, such individual shall present evidence to the employer that such individual has established a health savings account in compliance with 26 U.S.C. section 223 and any amendments and regulations. "Health benefit plan" does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(2) "Health savings account" shall have the same meaning ascribed to it as in subsection (d) of 26 U.S.C. section 223.

(3) "High deductible health plan" shall mean a policy or contract of health insurance or health care plan that meets the criteria established in subsection (c) of 26 U.S.C. section 223 and any amendments and regulations.

(d) The provisions of this section shall not take effect until July 1, 2008.

**History:** L. 2008, ch. 164, § 2; May 29.