



**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1995 ASSEMBLY BILL 545**

January 29, 1996 - Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT to repeal** 635.02 (5m) (b); **to renumber** 635.02 (5m) and 635.02 (5m) (a);
2 and **to create** 71.05 (6) (a) 19., 71.05 (6) (b) 22., 71.07 (5) (a) 7., 71.10 (4) (j), 71.83
3 (1) (c), 632.898 and 635.02 (5m) (b) of the statutes; **relating to:** tax-exempt
4 individual employe medical savings accounts established by employers or
5 self-employed persons with the difference between the cost of low-cost, high
6 cost-share health care coverage and more costly health care coverage and
7 granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 71.05 (6) (a) 19. of the statutes is created to read:
9 71.05 (6) (a) 19. Any principal that is withdrawn, and any accumulated
10 interest, dividends or other gain that accrues, from an account described under s.
11 632.898 during the taxable year in which a withdrawal occurs from such an account
12 if any amount of the money or other assets in the account is withdrawn for any reason
13 other than the payment of medical care expenses or long-term care expenses or the
14 purchase of long-term care insurance, as defined in s. 146.91 (1), for the account

1 holder, his or her spouse and all nonspouse dependents, as defined in s. 632.898 (1)
2 (b), except that this subdivision does not apply after the death of the account holder.

3 **SECTION 2.** 71.05 (6) (b) 22. of the statutes is created to read:

4 71.05 **(6)** (b) 22. Any amount that is deposited by an employer on behalf of that
5 employer's employe, or by a self-employed person on his or her own behalf, in an
6 account described under s. 632.898, up to \$2,000 each year for an individual, up to
7 \$2,000 each year for his or her spouse and up to \$1,000 each year for each nonspouse
8 dependent, as defined in s. 632.898 (1) (b), and any interest, dividends or other gain
9 that accrues in the account if the interest, dividends or other gain is redeposited in
10 the account, if the account is used exclusively to pay the medical care expenses and
11 long-term care expenses of the individual, his or her spouse and each minor
12 dependent, or to purchase long-term care insurance, as defined in s. 146.91 (1), for
13 such individuals. The maximum amount of a deposit to an account that is created
14 under this subdivision shall be increased each year, beginning in 1998, by a
15 percentage equal to the percentage change between the U.S. consumer price index
16 for all urban consumers, U.S. city average, for the month of June of the current year
17 and the U.S. consumer price index for all urban consumers, U.S. city average, for the
18 month of June of the previous year, as determined by the U.S. department of labor.
19 The revised amounts shall be rounded to the nearest whole number. The department
20 of revenue shall adopt by rule the changes in dollar amounts required under this
21 subdivision every year, and incorporate the changes in the income tax forms and
22 instructions.

23 **SECTION 3.** 71.07 (5) (a) 7. of the statutes is created to read:

24 71.07 **(5)** (a) 7. The amount claimed as a deduction for unreimbursed medical
25 care expenses under section 213 (a) of the internal revenue code to the extent that

1 the funds used to pay for the unreimbursed expenses for which the deduction was
2 claimed were withdrawn from an account described under s. 71.05 (6) (b) 22.

3 **SECTION 4.** 71.10 (4) (j) of the statutes is created to read:

4 71.10 (4) (j) Any amount of money or other assets computed under s. 71.83 (1)
5 (c).

6 **SECTION 5.** 71.83 (1) (c) of the statutes is created to read:

7 71.83 (1) (c) *Medical savings account withdrawals.* 1. Except as provided in
8 subd. 2., if a person is required to add any amount to federal adjusted gross income
9 under s. 71.05 (6) (a) 19., the person shall pay an amount equal to 10% of the amount
10 that is withdrawn from the account that results in a person making a payment under
11 s. 71.05 (6) (a) 19.

12 2. The penalty under subd. 1. does not apply and up to 25% of the balance in
13 the account described under s. 632.898 may be withdrawn each year if any of the
14 following occurs:

15 a. The account holder or his or her spouse reaches the age of 59.5 years during
16 the year in which the withdrawal occurs.

17 b. The balance in the account exceeds \$100,000.

18 **SECTION 6.** 632.898 of the statutes is created to read:

19 **632.898 Medical savings accounts. (1)** In this section:

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

21 1. A financial institution, the accounts of which are insured by the Federal
22 Deposit Insurance Corporation or the national credit union share insurance fund.

23 2. A trust company bank organized under ch. 223.

24 3. An insurer authorized to do business in this state.

25 4. A broker-dealer licensed under subch. III of ch. 551.

1 5. A plan administrator licensed under ch. 633.

2 6. A certified public accountant licensed to practice in this state.

3 7. An employer that has a self-insured health plan.

4 8. An employer that participates in the program under this section.

5 (b) "Dependent" has the meaning given in s. 635.02 (3c).

6 (c) "High cost-share health plan" means any health insurance policy, certificate
7 or contract with deductibles, copayments or other cost-sharing provisions of at least
8 \$1,500 if the insured's coverage is single or at least \$3,000 if the insured's coverage
9 is family.

10 (2) (a) An employer that, in providing health insurance coverage for its
11 employees, offers its employees a choice of health benefit plan options that includes a
12 high cost-share health plan may establish a medical savings account for an employee
13 who chooses a high cost-share health plan.

14 (b) The medical savings account shall be established as a separate account in
15 the employee's name and shall be the employee's property. The account may be
16 established with any account administrator that is approved by the commissioner to
17 administer medical savings accounts. The commissioner shall approve an account
18 administrator to administer medical savings accounts if the account administrator
19 insures the principal of the medical savings account against loss from any cause,
20 including loss due to market fluctuation. Whenever an employer establishes a
21 medical savings account on behalf of an employee, the employer shall notify the
22 department of revenue, in the manner prescribed by the department of revenue, of
23 the establishment of the account, the employee's name and social security number, the
24 name and address of the account administrator and any other information that the
25 department of revenue may require.

1 (c) Only an employer under par. (a), whether that employer established the
2 account or is a succeeding employer of an employe for whom a medical savings
3 account has been established, may make deposits in the medical savings account of
4 an employe who chooses a high cost-share health plan. Except as provided in par.
5 (d), such an employer shall deposit in the account the difference between what the
6 employer pays on behalf of the employe, or the employe and his or her dependents,
7 for the high cost-share health plan and what the employer would pay on behalf of
8 the employe, or the employe and his or her dependents, for the most expensive health
9 benefit plan that the employer offers that is not a high cost-share health plan.
10 Except as provided in sub. (4) (a), no other deposits may be made in the account.

11 (d) An employer that establishes a medical savings account on behalf of an
12 employe is not required to deposit in the account more than \$2,000 per year for the
13 employe if the employe's coverage is single, or more than \$2,000 per year for the
14 employe, \$2,000 per year for the employe's spouse or \$1,000 per year for each
15 nonspouse dependent of the employe if the employe's coverage is family. Beginning
16 in 1998, the amounts specified in this paragraph shall be increased each year in the
17 manner provided in s. 71.05 (6) (b) 22.

18 (e) An employe who chooses a high cost-share health plan and for whom a
19 medical savings account is established is not eligible for coverage under a different
20 health benefit plan offered by the employer before the end of the policy term of the
21 high cost-share health plan.

22 **(3)** (a) A self-employed person who purchases a high cost-share health plan
23 may establish a medical savings account in his or her name. Upon establishing a
24 medical savings account, a self-employed person shall notify the department of
25 revenue, in the manner prescribed by the department of revenue, of the

1 establishment of the account, the self-employed person's name and social security
2 number, the name and address of the account administrator and any other
3 information that the department of revenue may require.

4 (b) Except as provided in par. (c), a self-employed person who establishes a
5 medical savings account shall deposit in the account the difference between what the
6 self-employed person pays for the high cost-share health plan, including coverage
7 for his or her dependents, and what the self-employed person would pay for a more
8 expensive health benefit plan, including coverage for his or her dependents. Except
9 as provided in sub. (4) (b), no other deposits may be made in the account.

10 (c) A self-employed person who establishes a medical savings account is not
11 required to deposit in the account more than \$2,000 per year for himself or herself
12 if the self-employed person's coverage is single, or more than \$2,000 per year for
13 himself or herself, \$2,000 per year for his or her spouse or \$1,000 per year for each
14 nonspouse dependent if the self-employed person's coverage is family. Beginning in
15 1998, the amounts specified in this paragraph shall be increased each year in the
16 manner provided in s. 71.05 (6) (b) 22.

17 (4) (a) If an employe with a medical savings account under this section becomes
18 self-employed and purchases a high cost-share health plan, he or she may make
19 deposits in the account as provided in sub. (3).

20 (b) If a self-employed person with a medical savings account under this section
21 becomes employed by an employer described in sub. (2) (a) and chooses a high
22 cost-share health plan, the employer may make deposits in the account as provided
23 in sub. (2).

1 **(5)** (a) Amounts deposited in an account under this section and any interest,
2 dividends or other gain that accrues on amounts deposited in the account may be
3 used only for any of the following:

4 1. To pay expenses for medical care, as defined in 26 USC 213 (d) (1) and as
5 limited in 26 USC 213 (b), including amounts treated as paid for medical care under
6 26 USC 213 (d) (2).

7 2. To pay long-term care expenses of the employe or self-employed person or
8 any of the employe's or self-employed person's dependents.

9 3. To purchase a long-term care insurance policy for the employe or
10 self-employed person or any of the employe's or self-employed person's dependents.

11 (b) An employe or self-employed person with a medical savings account shall
12 provide information about the use of the account funds, in the manner prescribed by
13 the department of revenue, in conjunction with the filing of his or her Wisconsin
14 income tax return.

15 (c) Paragraph (a) does not apply after the death of the employe or self-employed
16 person.

17 **(6)** (a) A person that provides medical care, long-term care or a long-term care
18 insurance policy, the cost of which is to be paid with funds in a medical savings
19 account, shall bill the employe or self-employed person who is the holder of the
20 account directly, rather than billing the account administrator of the medical savings
21 account.

22 (b) The account administrator of a medical savings account shall do all of the
23 following:

24 1. Permit withdrawals from the account at least once a month.

25 2. Issue an account statement to the holder of the account at least quarterly.

1 **(7)** If the federal government enacts legislation providing for a federal income
2 tax exemption for amounts deposited in an account established under this section
3 and for any interest, dividends or other gain that accrues in the account if
4 redeposited in the account, 6 years after the enactment of the federal legislation the
5 commissioner shall conduct a study of individuals and groups that had coverage
6 under a high cost-share health plan and that terminated that coverage in order to
7 enroll in a health benefit plan that was not a high cost-share health plan. If as a
8 result of the study the commissioner determines that s. 635.02 (5m) (b) is not
9 necessary for the purpose for which it was intended, the commissioner shall certify
10 that determination to the revisor of statutes. Upon the certification, the revisor of
11 statutes shall publish notice in the Wisconsin administrative register of the
12 determination, the date of the certification and that after 30 days after the date of
13 the certification s. 635.02 (5m) (b) is not effective.

14 **SECTION 7.** 635.02 (5m) of the statutes is renumbered 635.02 (5m) (a).

15 **SECTION 8.** 635.02 (5m) (a) of the statutes, as affected by 1995 Wisconsin Act
16 (this act), is renumbered 635.02 (5m).

17 **SECTION 9.** 635.02 (5m) (b) of the statutes is created to read:

18 **635.02 (5m) (b)** Notwithstanding par. (a) 2. and 3., “qualifying coverage” does
19 not include a high cost-share health plan, as defined in s. 632.898 (1) (c), that is
20 linked to a medical savings account, as described in s. 632.898.

21 **SECTION 10.** 635.02 (5m) (b) of the statutes, as created by 1995 Wisconsin Act
22 (this act), is repealed.

23 **SECTION 11. Initial applicability.**

24 (1) **TAX-EXEMPT MEDICAL SAVINGS ACCOUNTS.** The treatment of sections 71.05 (6)
25 (a) 19. and (b) 22., 71.07 (5) (a) 7., 71.10 (4) (j), 71.83 (1) (c) and 632.898 of the statutes,

1 the renumbering of section 635.02 (5m) of the statutes and the creation of section
2 635.02 (5m) (b) of the statutes first apply to taxable years beginning on January 1,
3 1997.

4 **SECTION 12. Effective dates.** This act takes effect on the day after
5 publication, except as follows:

6 (1) QUALIFYING COVERAGE DEFINITION. The repeal of section 635.02 (5m) (b) of
7 the statutes and the renumbering of section 635.02 (5m) (a) of the statutes take effect
8 on the 31st day after the day on which the commissioner of insurance certifies to the
9 revisor of statutes under section 632.898 (7) of the statutes, as created by this act,
10 that section 635.02 (5m) (b) of the statutes, as created by this act, is not necessary
11 for the purpose for which it was intended.

12

(END)