

STATE OF NEW YORK

9384

2025-2026 Regular Sessions

IN ASSEMBLY

December 19, 2025

Introduced by M. of A. JENSEN -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the tax law, in relation to establishing New York health care savings accounts to expand and incentivize purchasing private health insurance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York health care savings act".

3 § 2. The public health law is amended by adding a new article 48-A to
4 read as follows:

ARTICLE 48-A

NEW YORK STATE HEALTH CARE SAVINGS PROGRAM

Section 4850. Program established.

4851. Purposes.

4852. Definitions.

4853. Functions of the comptroller and the corporation.

4854. Powers of the comptroller.

4855. Program requirements; New York state health care savings account.

4856. Program limitations; New York state health care savings account.

16 § 4850. Program established. There is hereby established the New York
17 state health care savings program and such program shall be known and
18 may be cited as the "New York state health care savings program".

19 § 4851. Purposes. The purposes of the New York state health care
20 savings program shall be to authorize the establishment of New York
21 state health care savings accounts and to provide guidelines for the
22 maintenance of such accounts.

23 § 4852. Definitions. For the purposes of this article, the following
24 terms shall have the following meanings:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 1. "Account" or "New York health care savings account" shall mean an
2 individual or family savings account established in accordance with the
3 provisions of this article.

4 2. "Account owner" shall mean a person who enters into a health care
5 savings agreement pursuant to the provisions of this article, including
6 a person who enters into such an agreement as a fiduciary or agent on
7 behalf of a trust, estate, partnership, association, company or corpo-
8 ration. The account owner may also be the designated beneficiary of the
9 account.

10 3. "Designated beneficiary" shall mean, with respect to an account or
11 accounts, the individual designated as the individual whose health care
12 expenses are expected to be paid from the account or accounts.

13 4. "Financial organization" shall mean an organization authorized to
14 do business in the state of New York and:

15 (a) which is an authorized fiduciary to act as a trustee pursuant to
16 the provisions of an act of congress entitled "Employee Retirement
17 Income Security Act of 1974" as such provisions may be amended from time
18 to time, or an insurance company;

19 (b) (i) is licensed or chartered by the department of financial
20 services;

21 (ii) is chartered by an agency of the federal government;

22 (iii) is subject to the jurisdiction and regulation of the securities
23 and exchange commission of the federal government; or

24 (iv) is any other entity otherwise authorized to act in this state as
25 a trustee pursuant to the provisions of an act of congress entitled
26 "Employee Retirement Income Security Act of 1974" as such provisions may
27 be amended from time to time.

28 5. "Member of the family" shall mean a family member as defined in
29 section five hundred twenty-nine of the Internal Revenue Code of 1986,
30 as amended.

31 6. "Program" shall mean the New York state health care savings program
32 established pursuant to this article.

33 7. "Qualified health care expenses" shall mean any health care-related
34 expense including but not limited to: premiums, deductibles, copays,
35 long-term care, and any out-of-pocket expense incurred by the designated
36 beneficiary or their member of the family eligible for such expense.

37 8. "Qualified withdrawal" shall mean a withdrawal from an account to
38 pay the qualified health care expenses of the designated beneficiary of
39 the account.

40 9. "Nonqualified withdrawal" shall mean a withdrawal from an account,
41 but shall not mean:

42 (a) a qualified withdrawal; or

43 (b) a withdrawal made as the result of the death or disability of the
44 designated beneficiary of an account.

45 10. "Department" shall mean the department of health of the state of
46 New York.

47 11. "Comptroller" shall mean the comptroller of the state of New York.

48 12. "Management contract" shall mean the contract executed by the
49 comptroller and a financial organization selected to act as a depository
50 and manager of the program.

51 13. "Health care savings agreement" shall mean an agreement between
52 the comptroller or a financial organization and the account owner.

53 14. "Program manager" shall mean a financial organization selected by
54 the comptroller to act as a depository and manager of the program.

55 § 4853. Functions of the comptroller and the corporation. 1. The comp-
56 troller and the department shall implement the program under the terms

1 and conditions established by this article and a memorandum of under-
2 standing relating to any terms or conditions not otherwise expressly
3 provided for in this article.

4 2. In furtherance of such implementation the memorandum of understand-
5 ing shall address the authority and responsibility of the comptroller
6 and the department to:

7 (a) develop and implement the program in a manner consistent with the
8 provisions of this article through rules and regulations established in
9 accordance with the state administrative procedure act;

10 (b) engage the services of consultants on a contract basis for render-
11 ing professional and technical assistance and advice;

12 (c) seek rulings and other guidance from the United States department
13 of treasury and the internal revenue service relating to the program;

14 (d) seek federal waivers in order for the participants in the program
15 to obtain the federal income tax benefits or treatment provided by
16 section two hundred twenty-three of the Internal Revenue Code of 1986,
17 as amended, or any similar successor legislation;

18 (e) charge, impose, and collect administrative fees and service charg-
19 es in connection with any agreement, contract or transaction relating to
20 the program;

21 (f) develop marketing plans and promotion material;

22 (g) establish the methods by which the funds held in such accounts be
23 dispersed;

24 (h) establish the method by which funds shall be allocated to pay for
25 administrative costs; and

26 (i) do all things necessary and proper to carry out the purposes of
27 this article.

28 § 4854. Powers of the comptroller. 1. The comptroller may implement
29 the program through use of financial organizations as account deposito-
30 ries and managers. Under the program, individuals may establish accounts
31 directly with an account depository.

32 2. The comptroller may solicit proposals from financial organizations
33 to act as depositories and managers of the program. Financial organiza-
34 tions submitting proposals shall describe the investment instrument
35 which will be held in accounts. The comptroller shall select as program
36 depositories and managers the financial organization, from among the
37 bidding financial organizations that demonstrates the most advantageous
38 combination, both to potential program participants and this state, of
39 the following factors:

40 (a) financial stability and integrity of the financial organization;

41 (b) the safety of the investment instrument being offered;

42 (c) the ability of the investment instrument to track increasing costs
43 of health care;

44 (d) the ability of the financial organization to satisfy recordkeeping
45 and reporting requirements;

46 (e) the financial organization's plan for promoting the program and
47 the investment it is willing to make to promote the program;

48 (f) the fees, if any, proposed to be charged to persons for opening
49 accounts;

50 (g) the minimum initial deposit and minimum contributions that the
51 financial organization will require;

52 (h) the ability of financial organizations to accept electronic with-
53 drawals, including payroll deduction plans; and

54 (i) other benefits to the state or its residents included in the
55 proposal, including fees payable to the state to cover expenses of oper-
56 ation of the program.

1 3. The comptroller may enter into a contract with a financial organ-
2 ization. Such financial organization management may provide one or more
3 types of investment instrument.

4 4. The comptroller may select more than one financial organization for
5 the program.

6 5. A management contract shall include, at a minimum, terms requiring
7 the financial organization to:

8 (a) take any action required to keep the program in compliance with
9 requirements of section four thousand eight hundred fifty-five of this
10 article;

11 (b) keep adequate records of each account, keep each account segre-
12 gated from each other account, and provide the comptroller with the
13 information necessary to prepare the statements required by section four
14 thousand eight hundred fifty-five of this article;

15 (c) compile and total information contained in statements required to
16 be prepared under section four thousand eight hundred fifty-five of this
17 article and provide such compilations to the comptroller;

18 (d) if there is more than one program manager, provide the comptroller
19 with such information necessary to determine compliance with section
20 four thousand eight hundred fifty-five of this article;

21 (e) provide the comptroller or their designee access to the books and
22 records of the program manager to the extent needed to determine compli-
23 ance with the contract;

24 (f) hold all accounts for the benefit of the account owner;

25 (g) be audited at least annually by a firm of certified public
26 accountants selected by the program manager and that the results of such
27 audit be provided to the comptroller;

28 (h) provide the comptroller with copies of all regulatory filings and
29 reports made by it during the term of the management contract or while
30 it is holding any accounts, other than confidential filings or reports
31 that will not become part of the program. The program manager shall make
32 available for review by the comptroller the results of any periodic
33 examination of such manager by any state or federal banking, insurance,
34 or securities commission, except to the extent that such report or
35 reports may not be disclosed under applicable law or the rules of such
36 commission; and

37 (i) ensure that any description of the program, whether in writing or
38 through the use of any media, is consistent with the marketing plan
39 developed in the memorandum of understanding pursuant to the provisions
40 of section four thousand eight hundred fifty-three of this article.

41 6. The comptroller may provide that an audit shall be conducted of the
42 operations and financial position of the program depository and manager
43 at any time if the comptroller has any reason to be concerned about the
44 financial position, the recordkeeping practices, or the status of
45 accounts of such program depository and manager.

46 7. During the term of any contract with a program manager, the comp-
47 troller shall conduct an examination of such manager and its handling of
48 accounts. Such examination shall be conducted at least biennially if
49 such manager is not otherwise subject to periodic examination by the
50 superintendent of financial services, the federal deposit insurance
51 corporation or other similar entity.

52 8. (a) If selection of a financial organization as a program manager
53 or depository is not renewed, after the end of its term:

54 (i) accounts previously established and held in an investment instru-
55 ment at such financial organization may be terminated;

56 (ii) additional contributions may be made to such accounts;

1 (iii) no new accounts may be placed with such financial organization;
2 and

3 (iv) existing accounts held by such depository shall remain subject to
4 all oversight and reporting requirements established by the comptroller.

5 (b) If the comptroller terminates a financial organization as a
6 program manager or depository, they shall take custody of accounts held
7 by such financial organization and shall seek to promptly transfer such
8 accounts to another financial organization that is selected as a program
9 manager or depository and into investment instruments as similar to the
10 original instruments as possible.

11 9. The comptroller may enter into such contracts as necessary and
12 proper for the implementation of the program.

13 § 4855. Program requirements; New York state health care savings
14 account. 1. New York health care savings accounts established pursuant
15 to the provisions of this article shall be governed by the provisions of
16 this section.

17 2. A New York health care savings account may be opened by any person
18 who desires to save money for the payment of the qualified health care-
19 related expenses of the designated beneficiary or their member of the
20 family. An account owner may designate another person as successor owner
21 of the account in the event of the death of the original account owner.
22 Such person who opens an account or any successor owner shall be consid-
23 ered the account owner as defined in section four thousand eight hundred
24 fifty-two of this article.

25 (a) An application for such account shall be in the form prescribed by
26 the program and contain the following:

27 (i) the name, address and social security number or employer identifi-
28 cation number of the account owner;

29 (ii) the designation of a designated beneficiary;

30 (iii) the name, address, and social security number of the designated
31 beneficiary; and

32 (iv) such other information as the program may require.

33 (b) The comptroller and the department may establish a nominal fee for
34 such application.

35 3. Any person, including the account owner, may make contributions to
36 the account after the account is opened.

37 4. Contributions to accounts may be made in cash or may be deposited
38 by a taxpayer who has elected to contribute all or a portion of a refund
39 of personal income tax to an account that has been established under
40 this article.

41 (a) Taxpayer contributions shall be made by direct deposit to the
42 designated account. The amount elected to be contributed by the taxpayer
43 must be at least twenty-five dollars and may be applied as a contrib-
44 ution only for the tax year in which the refund is issued.

45 (b) The election shall be made on a form prescribed by the department
46 of taxation and finance and filed with the taxpayer's tax return for the
47 tax year or at such other time and in such other manner as the depart-
48 ment may prescribe. The department shall prescribe the maximum number of
49 accounts to which a taxpayer may elect to contribute a portion of the
50 refund.

51 (c) The election to contribute all or a portion of a refund shall not
52 be revocable.

53 (d) All or a portion of a refund may not be contributed to an account
54 that has been established under this article if the amount of the
55 taxpayer's elected refund for such tax year is reduced by any other

1 sections of the tax law to the amount less than the minimum amount of
2 contribution authorized under this section.

3 5. An account owner may withdraw all or part of the balance from an
4 account on sixty days notice or such shorter period as may be authorized
5 under rules governing the program. Such rules shall include provisions
6 that will generally enable the determination as to whether a withdrawal
7 is a nonqualified withdrawal or a qualified withdrawal.

8 6. (a) An account owner may change the designated beneficiary of an
9 account to an individual who is a member of the family of the prior
10 designated beneficiary in accordance with procedures established by the
11 memorandum of understanding pursuant to the provisions of section four
12 thousand eight hundred fifty-three of this article.

13 (b) An account owner may transfer all or a portion of an account to
14 another New York health care savings account, the subsequent designated
15 beneficiary of which is a member of the family.

16 (c) Changes in designated beneficiaries and transfers under this
17 subdivision shall not be permitted to the extent that they would cause
18 all accounts for the same beneficiary to exceed the permitted aggregate
19 maximum account balance.

20 7. The program shall provide separate accounting for each designated
21 beneficiary.

22 8. No account owner or designated beneficiary of any account shall be
23 permitted to direct the investment of any contributions to an account or
24 the earnings thereon more than two times in any calendar year.

25 9. Neither an account owner nor a designated beneficiary may use an
26 interest in an account as security for a loan. Any pledge of an interest
27 in an account shall be of no force and effect.

28 10. The comptroller shall promulgate rules or regulations to prevent
29 contributions on behalf of a designated beneficiary in excess of an
30 amount that would cause the aggregate account balance for all accounts
31 for a designated beneficiary to exceed a maximum account balance, as
32 established from time to time by the comptroller and the department on
33 the basis of health care costs in the state, with adequate safeguards to
34 prevent more contributions than necessary to provide for qualified
35 health care expenses of the beneficiary or their member of the family.

36 11. (a) If there is any distribution from an account to any individual
37 or for the benefit of any individual during a calendar year, such
38 distribution shall be reported to the internal revenue service and the
39 account owner, the designated beneficiary, or the distributee to the
40 extent required by federal law or regulation.

41 (b) Statements shall be provided to each account owner at least once
42 each year within sixty days after the end of the twelve month period to
43 which they relate. The statement shall identify the contributions made
44 during a preceding twelve month period, the total contributions made to
45 the account through the end of the period, the value of the account at
46 the end of such period, distributions made during such period and any
47 other information that the comptroller shall require to be reported to
48 the account owner.

49 (c) Statements and information relating to accounts shall be prepared
50 and filed to the extent required by federal and state tax law.

51 12. (a) A local government or organization described in section
52 501(c)(3) of the Internal Revenue Code of 1986, as amended, may open and
53 become the account owner of an account to fund qualified health care
54 expenses for persons whose identity will be determined upon disburse-
55 ment.

1 (b) In the case of any account opened pursuant to paragraph (a) of
2 this subdivision the requirement set forth in subdivision two of this
3 section that a designated beneficiary be designated when an account is
4 opened shall not apply and each individual who receives an interest in
5 such account as a qualified health care expense shall be treated as a
6 designated beneficiary with respect to such interest.

7 13. An annual fee may be imposed upon the account owner for the main-
8 tenance of the account.

9 14. The program shall disclose the following information in writing to
10 each account owner and prospective account owner of a New York health
11 care savings account:

12 (a) the terms and conditions for purchasing a New York health care
13 savings account;

14 (b) any restrictions on the substitution of beneficiaries;

15 (c) the person or entity entitled to terminate the New York health
16 care savings account;

17 (d) the period of time during which a beneficiary may receive benefits
18 under the health care savings agreement;

19 (e) the terms and conditions under which money may be wholly or
20 partially withdrawn from the program, including, but not limited to, any
21 reasonable charges and fees that may be imposed for withdrawal;

22 (f) the probable tax consequences associated with contributions to and
23 distributions from accounts; and

24 (g) all other rights and obligations pursuant to health care savings
25 agreements, and any other terms, conditions, and provisions deemed
26 necessary and appropriate by the terms of the memorandum of understand-
27 ing entered into pursuant to section four thousand eight hundred fifty-
28 three of this article.

29 15. Health care savings agreements shall be subject to section four-
30 teen-c of the banking law and the "truth-in-savings" regulations promul-
31 gated thereunder.

32 § 4856. Program limitations; New York state health care savings
33 account. 1. Nothing in this article shall be construed to:

34 (a) give any designated beneficiary any rights or legal interest with
35 respect to an account unless the designated beneficiary is the account
36 owner;

37 (b) create state residency for an individual merely because the indi-
38 vidual is a designated beneficiary or their member of the family; or

39 (c) guarantee that amounts saved pursuant to the program will be
40 sufficient to cover the qualified health care expenses of a designated
41 beneficiary or their member of the family.

42 2. (a) Nothing in this article shall create or be construed to create
43 any obligation of the comptroller, the state, or any agency or instru-
44 mentality of the state to guarantee for the benefit of any account owner
45 or designated beneficiary with respect to:

46 (i) the rate of interest or other return on any account; and

47 (ii) the payment of interest or other return on any account.

48 (b) The comptroller and the department by rule or regulation shall
49 provide that every contract, application, deposit slip, or other similar
50 document that may be used in connection with a contribution to an
51 account clearly indicate that the account is not insured by the state
52 and neither the principal deposited nor the investment return is guaran-
53 teed by the state.

54 § 3. Subsection (b) of section 612 of the tax law is amended by adding
55 a new paragraph 44 to read as follows:

1 (44) (A) Excess distributions received during the taxable year by a
2 distributee of a New York health care savings account established under
3 the New York health care savings program provided for under article
4 forty-eight-A of the public health law, to the extent such excess
5 distributions are deemed attributable to deductible contributions under
6 paragraph forty-eight of subsection (c) of this section.

7 (B) (i) The term "excess distributions" means distributions which are
8 not:

9 (I) qualified withdrawals within the meaning of subdivision eight of
10 section four thousand eight hundred fifty-two of the public health law;

11 (II) withdrawals made as a result of the death or disability of the
12 designated beneficiary within the meaning of subdivision nine of section
13 four thousand eight hundred fifty-four of the public health law; or

14 (III) transfers described in paragraph (b) of subdivision six of
15 section four thousand eight hundred fifty-five of the public health law.

16 (ii) Excess distributions shall be deemed attributable to deductible
17 contributions to the extent the amount of any such excess distribution,
18 when added to all previous excess distributions from the account,
19 exceeds the aggregate of all nondeductible contributions to the account.

20 § 4. Subsection (c) of section 612 of the tax law is amended by adding
21 two new paragraphs 48 and 49 to read as follows:

22 (48) Contributions made during the taxable year by an account owner to
23 one or more New York health care savings accounts established under the
24 New York health savings program provided for under article forty-eight-A
25 of the public health law, to the extent not deductible or eligible for
26 credit for federal income tax purposes; provided, however, the exclusion
27 provided for in this paragraph shall not exceed five thousand dollars
28 for an individual or head of household, and for married couples who file
29 joint tax returns, shall not exceed ten thousand dollars; provided,
30 further, that such exclusion shall be available only to the account
31 owner and not to any other person.

32 (49) Distributions from a New York health care savings account estab-
33 lished under the New York state health care savings program provided for
34 under article forty-eight-A of the public health law, to the extent
35 includible in gross income for federal income tax purposes.

36 § 5. This act shall take effect immediately and shall apply to taxable
37 years beginning on or after the first of January next succeeding the
38 date on which it shall have become a law.