



1 S 267. DEFINITIONS. AS USED IN THIS TITLE:

2 1. "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS WORKING OR LOOKING  
3 FOR WORK, OR WHO IS ENROLLED IN A JOB TRAINING PROGRAM, AND WHO IS  
4 ELIGIBLE FOR THE MEDICAL ASSISTANCE PROGRAM OR SUCH OTHER PROGRAMS AS  
5 WILL ALLOW SUCH INDIVIDUAL TO QUALIFY FOR THE DEMONSTRATION PROGRAM, AND  
6 WHO VOLUNTARILY ENROLLS IN THE DEMONSTRATION PROGRAM. SUCH ELIGIBLE  
7 INDIVIDUALS MAY INCLUDE INDIVIDUALS WHO ARE ENROLLED IN MEDICAID MANAGED  
8 CARE PLANS, IF THE COMMISSIONER, ON RECOMMENDATION OF THE ADVISORY  
9 COMMITTEE, DETERMINES TO INCLUDE THEM; PROVIDED HOWEVER THAT THE DETER-  
10 MINATION TO INCLUDE SUCH INDIVIDUALS SHALL BE SUBJECT TO FEDERAL  
11 REQUIREMENTS AND LIMITATIONS CONCERNING SUCH INDIVIDUALS. AN ELIGIBLE  
12 INDIVIDUAL SHALL NOT INCLUDE INDIVIDUALS (A) WHO ARE SIXTY-FIVE YEARS OF  
13 AGE OR OLDER; OR (B) WHO ARE DISABLED; OR (C) WHO ARE ELIGIBLE FOR  
14 MEDICAL ASSISTANCE ONLY BECAUSE THEY ARE (OR WERE WITHIN THE PREVIOUS  
15 SIXTY DAYS) PREGNANT; OR (D) WHO HAVE BEEN ELIGIBLE FOR MEDICAL ASSIST-  
16 ANCE FOR A CONTINUOUS PERIOD OF LESS THAN THREE MONTHS; OR (E) ANY  
17 OTHERS PROHIBITED FROM ELIGIBILITY BY FEDERAL REQUIREMENTS, OR WHO ARE  
18 EXCLUDED BY THE COMMISSIONER ON RECOMMENDATION OF THE ADVISORY COMMIT-  
19 TEE.

20 2. "ENROLLMENT" MEANS THE VOLUNTARY ENROLLMENT BY AN ELIGIBLE INDIVID-  
21 UAL IN THE ALTERNATIVE BENEFITS PLAN AUTHORIZED BY THIS TITLE. ENROLL-  
22 MENT SHALL BE FOR A PERIOD OF TWELVE MONTHS, AND MAY BE EXTENDED FOR  
23 ADDITIONAL PERIODS OF TWELVE MONTHS AT THE OPTION OF THE ELIGIBLE INDIV-  
24 VIDUAL. AN ELIGIBLE INDIVIDUAL WHO, FOR ANY REASON, UNENROLLS OR IS  
25 UNENROLLED FROM THE PROGRAM SHALL NOT BE PERMITTED TO REENROLL FOR A  
26 PERIOD OF TWELVE MONTHS FROM THE DATE OF SUCH UNENROLLMENT.

27 3. "DEDUCTIBLE" MEANS AN AMOUNT WHICH IS ONE HUNDRED TEN PERCENT OF  
28 THE ANNUALIZED AMOUNT OF STATE AND FEDERAL CONTRIBUTIONS MADE BY THE  
29 COMMISSIONER TO A HEALTH OPPORTUNITY ACCOUNT PURSUANT TO THIS SECTION.  
30 UPON RECOMMENDATION OF THE ADVISORY COMMITTEE, THE COMMISSIONER MAY  
31 ESTABLISH A TIERED SCHEDULE OF ANNUAL DEDUCTIBLES, BASED ON FAMILY OR  
32 INDIVIDUAL INCOME, CONSISTENT WITH FEDERAL REQUIREMENTS FOR SUCH TIERED  
33 SCHEDULE.

34 4. "HEALTH OPPORTUNITY ACCOUNT" MEANS AN ACCOUNT OPENED BY OR ON  
35 BEHALF OF AN ELIGIBLE INDIVIDUAL PURSUANT TO THE DEMONSTRATION PROGRAM  
36 AUTHORIZED BY THIS TITLE. SUCH ELIGIBLE INDIVIDUAL SHALL BE DEEMED THE  
37 OWNER OF THE ACCOUNT, SUBJECT TO THE RESTRICTIONS AND REQUIREMENTS OF  
38 THIS TITLE AND OF ANY FEDERAL REQUIREMENTS AND LIMITATIONS CONCERNING  
39 SUCH ACCOUNTS. CONTRIBUTIONS TO A HEALTH OPPORTUNITY ACCOUNT MAY BE MADE  
40 FROM THE STATE AND FEDERAL GOVERNMENTS, AND OTHER PERSONS AND ENTITIES,  
41 INCLUDING CHARITABLE ORGANIZATIONS, AS MAY BE PERMITTED BY THE SECRETARY  
42 UNDER THE TERMS OF THE DEMONSTRATION PROGRAM, PROVIDED HOWEVER THAT THE  
43 COMBINED STATE AND FEDERAL SHARE OF CONTRIBUTIONS TO A HEALTH OPPORTU-  
44 NITY ACCOUNT ON BEHALF OF AN INDIVIDUAL SHALL NOT EXCEED TWENTY-FIVE  
45 HUNDRED DOLLARS ANNUALLY FOR EACH INDIVIDUAL OR FAMILY MEMBER WHO IS AN  
46 ADULT AND ONE THOUSAND DOLLARS FOR EACH INDIVIDUAL OR FAMILY MEMBER WHO  
47 IS A CHILD, AND PROVIDED FURTHER THAT THE LIMITATIONS ON SUCH CONTRIB-  
48 UCTIONS SHALL BE ANNUALLY ADJUSTED BY THE ANNUAL PERCENTAGE INCREASE IN  
49 THE MEDICAL CARE COMPONENT OF THE CONSUMER PRICE INDEX FOR ALL URBAN  
50 CONSUMERS AS PERMITTED BY THE SECRETARY. THE COMMISSIONER SHALL SEEK TO  
51 MAXIMIZE FEDERAL CONTRIBUTIONS TO HEALTH OPPORTUNITY ACCOUNTS ESTAB-  
52 LISHED PURSUANT TO THIS SECTION.

53 5. "SECRETARY" MEANS THE SECRETARY OF THE FEDERAL DEPARTMENT OF HEALTH  
54 AND HUMAN SERVICES.

55 6. "ADVISORY COMMITTEE" MEANS AN ADVISORY COMMITTEE APPOINTED BY THE  
56 COMMISSIONER TO AID IN THE DESIGN AND IMPLEMENTATION OF THE DEMON-

STRATION PROGRAM AUTHORIZED BY THIS TITLE. THE COMMITTEE SHALL CONSIST OF TEN PERSONS, OF WHOM FOUR SHALL BE PERSONS WITH AT LEAST FIVE YEARS EXPERIENCE AT EXECUTIVE LEVELS IN THE PROVISION OF HEALTH CARE IN THIS STATE, THREE SHALL BE EXPERTS IN THE ELECTRONIC TRANSMISSION OF FUNDS AND PAYMENT FOR SERVICES, OR PERSONS WITH EXPERTISE IN THE USE OF SAVINGS ACCOUNTS FOR THE PAYMENT OF HEALTH CARE SERVICES, AND THREE SHALL BE CONSUMERS OR ADVOCATES FOR CONSUMERS LIKELY TO BE OR BECOME ELIGIBLE INDIVIDUALS PURSUANT TO THE TERMS OF THIS DEMONSTRATION.

7. "MEDICAID ASSISTANCE PROGRAM" MEANS MEDICAL ASSISTANCE FOR NEEDY PERSONS AS AUTHORIZED BY TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW AND OTHER APPLICABLE STATE LAW.

S 268. IMPLEMENTATION. 1. THE COMMISSIONER SHALL TAKE SUCH STEPS AS SHALL BE NECESSARY TO DEVELOP THE APPLICATION FOR THE ALTERNATIVE BENEFITS PROGRAM AUTHORIZED BY THIS SECTION AND SECTION 6082 OF THE DEFICIT REDUCTION ACT OF 2005 (P.L. 109-171), AND TO ESTABLISH AGREEMENTS WITH AT LEAST THREE BUT NOT MORE THAN TEN COUNTIES FOR THE IMPLEMENTATION OF THE PROGRAM IF APPROVED BY THE SECRETARY. IF APPROVED BY THE SECRETARY, THE COMMISSIONER IS AUTHORIZED TO AND SHALL IMPLEMENT THE PROGRAM IN COUNTIES SELECTED PURSUANT TO THIS SUBDIVISION. THE COMMISSIONER SHALL CONSULT WITH THE ADVISORY COMMITTEE IN THE DESIGN AND DEVELOPMENT OF THE APPLICATION.

2. THE COMMISSIONER MAY COORDINATE ADMINISTRATION OF HEALTH OPPORTUNITY ACCOUNTS THROUGH THE USE OF A THIRD ADMINISTRATOR, TO THE EXTENT PERMITTED BY FEDERAL REQUIREMENTS FOR THE PROGRAM. THE COMMISSIONER SHALL NOT USE A THIRD PARTY ADMINISTRATOR IF EXPENDITURES FOR THE USE OF SUCH ADMINISTRATOR ARE NOT REIMBURSABLE IN THE SAME MANNER AS OTHER ADMINISTRATIVE EXPENDITURES PURSUANT TO SECTION 1903(A)(7) OF THE SOCIAL SECURITY ACT. THE COMMISSIONER MAY USE A REQUEST FOR PROPOSALS OR REQUEST FOR QUALIFICATIONS PROCESS IN SELECTING SUCH THIRD PARTY ADMINISTRATOR, AND SHALL CONSULT WITH THE ADVISORY COMMITTEE IN THE DESIGN OF SUCH RFP AND RFQ.

3. THE COMMISSIONER SHALL REQUIRE THAT PROVIDERS OF SERVICE PROVIDE SUCH SERVICES TO THE OWNER OF A HEALTH OPPORTUNITY ACCOUNT IN THE SAME MANNER AND FOR THE SAME RATES AND PAYMENTS AS IF THE INDIVIDUAL WAS ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM AND NOT THIS DEMONSTRATION PROGRAM, AND AS IF THE DEDUCTIBLE WAS NOT APPLICABLE.

4. THE COMMISSIONER, AFTER CONSULTING WITH THE SUPERINTENDENT OF BANKS, THE ADVISORY COMMITTEE, AND OTHERS THE COMMISSIONER DEEMS APPROPRIATE, SHALL PROVIDE FOR A METHOD WHEREBY WITHDRAWALS MAY BE MADE FROM A HEALTH OPPORTUNITY ACCOUNT FOR PAYMENT OF ELIGIBLE MEDICAL CARE EXPENSES USING AN ELECTRONIC SYSTEM. IN NO CASE SHALL WITHDRAWALS FROM THE ACCOUNT BE PERMITTED IN CASH.

S 269. USE OF HEALTH OPPORTUNITY ACCOUNTS. THE COMMISSIONER SHALL PRESCRIBE BY RULE AND REGULATION THE PERMITTED USES OF FUNDS IN HEALTH OPPORTUNITY ACCOUNTS. SUCH RULE AND REGULATION SHALL REQUIRE:

1. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FUNDS IN A HEALTH OPPORTUNITY ACCOUNT SHALL ONLY BE USED FOR PAYMENT OF MEDICAL CARE, AS SUCH TERM IS DEFINED IN SECTION 213(D) OF THE INTERNAL REVENUE CODE, OR FOR THE PURCHASE OF HEALTH INSURANCE COVERAGE; IN THE CASE OF AN ACCOUNT OWNER WHO HAS BEEN ENROLLED IN THE PROGRAM FOR AT LEAST ONE YEAR, SUCH FUNDS MAY ALSO BE USED FOR EDUCATIONAL EXPENDITURES FOR JOB TRAINING AND TUITION EXPENSES OR OTHER EXPENDITURES APPROVED BY THE COMMISSIONER ON RECOMMENDATION OF THE ADVISORY COMMITTEE, PROVIDED (A) THAT SUCH EXPENDITURES SHALL BE MADE ONLY TO INSTITUTIONS AND PROGRAMS APPROVED BY THE COMMISSIONER, (B) THAT THE PURPOSE OF SUCH EXPENDITURES IS TO ENABLE THE

1 INDIVIDUAL TO ACQUIRE SKILLS AND TRAINING, AND (C) THAT ANY SUCH EXPEND-  
2 ITURES FOR ITEMS OTHER THAN MEDICAL CARE ARE APPROVED BY THE SECRETARY.

3 2. IF THE OWNER OF A HEALTH OPPORTUNITY ACCOUNT BECOMES INELIGIBLE TO  
4 CONTINUE AS AN ELIGIBLE INDIVIDUAL UNDER THIS SECTION BECAUSE OF AN  
5 INCREASE IN INCOME OR ASSETS, (A) NO ADDITIONAL CONTRIBUTION SHALL BE  
6 MADE TO THE ACCOUNT BY THE COMMISSIONER, (B) THE BALANCE IN THE ACCOUNT  
7 SHALL BE REDUCED BY TWENTY-FIVE PERCENT OF THE AMOUNT OF STATE AND  
8 FEDERAL FUNDS DEPOSITED INTO THE ACCOUNT BY THE COMMISSIONER, EXCEPT AS  
9 OTHERWISE PROVIDED HEREIN; PROVIDED HOWEVER THAT (C) THE ACCOUNT SHALL  
10 REMAIN AVAILABLE TO THE ACCOUNT HOLDER FOR THREE YEARS AFTER THE DATE ON  
11 WHICH SUCH OWNER BECOMES INELIGIBLE FOR WITHDRAWALS UNDER THE SAME TERMS  
12 AND CONDITIONS AS IF SUCH OWNER REMAINED ELIGIBLE, AND SUCH WITHDRAWALS  
13 SHALL BE TREATED AS MEDICAL ASSISTANCE IN ACCORDANCE WITH THIS DEMON-  
14 STRATION PROGRAM. FOR PURPOSES OF COMPUTING THE REDUCTION OF TWENTY-FIVE  
15 PERCENT REQUIRED BY PARAGRAPH (B) OF THIS SUBDIVISION, ANY WITHDRAWALS  
16 FROM THE ACCOUNT FOR PAYMENT OF ELIGIBLE EXPENSES SHALL FIRST BE CREDIT-  
17 ED TO STATE AND FEDERAL CONTRIBUTIONS, AND NOT TO CONTRIBUTIONS BY OTHER  
18 INDIVIDUALS AND ENTITIES.

19 3. THE OWNER OF A HEALTH OPPORTUNITY ACCOUNT WHO BECOMES INELIGIBLE TO  
20 CONTINUE AS AN ELIGIBLE INDIVIDUAL UNDER THIS SECTION SHALL NOT BE  
21 REQUIRED TO PURCHASE INSURANCE AS A CONDITION OF CONTINUING TO USE OR  
22 MAINTAIN THE ACCOUNT.

23 4. AMOUNTS CONTAINED IN OR CONTRIBUTED TO A HEALTH OPPORTUNITY ACCOUNT  
24 SHALL NOT BE COUNTED AS INCOME OR ASSETS FOR PURPOSES OF DETERMINING  
25 ELIGIBILITY FOR BENEFITS UNDER MEDICAL ASSISTANCE.

26 5. THE COMMISSIONER, UPON RECOMMENDATION OF THE ADVISORY COMMITTEE,  
27 SHALL ESTABLISH PROCEDURES TO PENALIZE AN INDIVIDUAL WHO MAKES UNQUALI-  
28 FIED WITHDRAWALS FROM A HEALTH OPPORTUNITY ACCOUNT, INCLUDING DISQUALI-  
29 FYING SUCH PERSON FROM CONTINUING ENROLLMENT IN THE PROGRAM AND CLOSING  
30 THE ACCOUNT, RECOUPING COSTS FROM SUCH NONQUALIFIED WITHDRAWALS, AND  
31 OTHER APPROPRIATE ACTIONS.

32 6. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTAND-  
33 ING, THE COMMISSIONER MAY, UPON RECOMMENDATION OF THE ADVISORY COMMITTEE  
34 AND IF THE SECRETARY SHALL APPROVE, PROVIDE APPROPRIATE INCENTIVES FOR  
35 THE USE OF PREVENTATIVE CARE BY THE OWNER OF THE ACCOUNT, INCLUDING  
36 WAIVING THE DEDUCTIBLE FOR USE OF PREVENTATIVE CARE AND REDUCING THE  
37 REDUCTION REQUIRED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS  
38 SECTION FOR AN OWNER WHO BECOMES INELIGIBLE TO CONTINUE AS AN ELIGIBLE  
39 INDIVIDUAL, OR WAIVING OF CO-PAYS FOR SUCH CARE. FOR PURPOSES OF THIS  
40 SUBDIVISION, PREVENTATIVE CARE IS ANY CARE THAT QUALIFIES AS PREVENTA-  
41 TIVE CARE FOR PURPOSES OF SECTION 223(C)(2)(C) OF THE INTERNAL REVENUE  
42 CODE, INCLUDING BUT NOT LIMITED TO, PERIODIC HEALTH EVALUATIONS, INCLUD-  
43 ING TESTS AND DIAGNOSTIC PROCEDURES ORDERED IN CONNECTION WITH ROUTINE  
44 EXAMINATIONS, SUCH AS ANNUAL PHYSICALS; ROUTINE PRENATAL AND WELL-CHILD  
45 CARE; CHILD AND ADULT IMMUNIZATIONS; TOBACCO CESSATION PROGRAMS; OBESITY  
46 WEIGHT-LOSS PROGRAMS; SCREENING SERVICES; AND OTHER CARE WHICH QUALIFIES  
47 UNDER SUCH SECTION.

48 7. THE COMMISSIONER SHALL ESTABLISH ACCESS TO NEGOTIATED PROVIDER  
49 PAYMENT RATES. IN THE CASE OF AN ELIGIBLE INDIVIDUAL PARTICIPATING IN  
50 THIS DEMONSTRATION PROGRAM WHO (A) IS NOT ENROLLED WITH A MEDICAID  
51 MANAGED CARE ORGANIZATION, THE COMMISSIONER SHALL PROVIDE THAT THE INDI-  
52 VIDUAL MAY OBTAIN SERVICES FROM (I) ANY PARTICIPATING PROVIDER UNDER  
53 THIS TITLE AT THE SAME PAYMENT RATES THAT WOULD BE APPLICABLE TO SUCH  
54 SERVICES IF THE DEDUCTIBLE WAS NOT APPLICABLE; OR (II) ANY OTHER PROVID-  
55 ER AT PAYMENT RATES THAT DO NOT EXCEED ONE HUNDRED TWENTY-FIVE PERCENT  
56 OF THE PAYMENT RATE THAT WOULD BE APPLICABLE TO SUCH SERVICES FURNISHED

1 BY A PARTICIPATING PROVIDER UNDER THIS TITLE IF THE DEDUCTIBLE WAS NOT  
2 APPLICABLE; OR (B) WHO IS ENROLLED WITH A MEDICAID MANAGED CARE ORGAN-  
3 IZATION, THE COMMISSIONER SHALL ENTER INTO AN ARRANGEMENT WITH THE  
4 ORGANIZATION UNDER WHICH THE INDIVIDUAL MAY OBTAIN SERVICES FROM ANY  
5 OTHER PROVIDER AT PAYMENT RATES THAT DO NOT EXCEED ONE HUNDRED  
6 TWENTY-FIVE PERCENT OF THE PAYMENT RATE THAT WOULD BE APPLICABLE TO SUCH  
7 SERVICES FURNISHED BY A PARTICIPATING PROVIDER UNDER THIS TITLE IF THE  
8 DEDUCTIBLE WAS NOT APPLICABLE. SUCH PAYMENT RATES SHALL BE COMPUTED  
9 WITHOUT REGARD TO ANY COST SHARING THAT WOULD BE OTHERWISE APPLICABLE.  
10 8. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PREVENTING AN EMPLOY-  
11 ER FROM PROVIDING HEALTH BENEFITS COVERAGE TO AN ELIGIBLE INDIVIDUAL  
12 UNDER THE DEMONSTRATION PROJECT AUTHORIZED BY THIS SECTION, AND THE  
13 COMMISSIONER SHALL MAKE APPROPRIATE EFFORTS TO PARTNER WITH EMPLOYERS  
14 FOR THE PROVISION OF HEALTH CARE TO SUCH ELIGIBLE INDIVIDUALS.  
15 S 269-A. REPORTS. THE COMMISSIONER SHALL REPORT TO THE GOVERNOR AND  
16 THE LEGISLATURE FROM TIME TO TIME ON THE IMPLEMENTATION OF THE DEMON-  
17 STRATION PROGRAM, AND SHALL PROVIDE AN INTERIM REPORT NOT LATER THAN THE  
18 THIRD YEAR OF THE PROGRAM, AND A FINAL REPORT NOT LATER THAN MAY FIRST  
19 OF THE FIFTH YEAR OF THE PROGRAM. THE INTERIM AND FINAL REPORTS SHALL  
20 PROVE STATISTICAL NARRATIVES OF THE LEVELS OF ENROLLMENT IN THE PROGRAM,  
21 THE COSTS AND SAVINGS ASSOCIATED WITH THE PROGRAM, AND AN EVALUATION OF  
22 THE SUCCESS OF THE PROGRAM IN ATTAINING ITS GOALS.  
23 S 2. This act shall take effect immediately.