

105TH CONGRESS
2D SESSION

H. R. 3166

To amend title 5, United States Code, to permit the use of medical savings accounts under the health benefits program for Federal employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1998

Mr. BURTON of Indiana (for himself, Mr. ARCHER, Mr. THOMAS, Mr. MICA, Mr. SALMON, Mr. SESSIONS, Mr. GILMAN, Mr. COOKSEY, Mr. CUNNINGHAM, Mr. ENSIGN, Mr. NORWOOD, Mr. CANNON, Mr. HASTERT, Mrs. KELLY, Mr. COX of California, Mr. STUMP, Mr. PAUL, Mr. BALLENGER, Mr. INGLIS of South Carolina, Mr. WALSH, Mr. PAPPAS, Mr. DREIER, Mr. CHRISTENSEN, Mr. GANSKE, Mr. KNOLLENBERG, Mr. FOLEY, Mr. MCCREERY, Mr. CRANE, Mr. BRADY, Mr. SAM JOHNSON of Texas, Mr. ENGLISH of Pennsylvania, Mr. CAMP, Ms. GRANGER, Mr. MILLER of Florida, Mr. DELAY, Mr. HILLEARY, Mr. TALENT, Mr. PETRI, Mr. COOK, Mr. HOUGHTON, Mr. MCINTOSH, Mr. BOEHNER, Mrs. MYRICK, Mr. ARMEY, Mr. HOEKSTRA, Mr. SPENCE, Mr. HAYWORTH, Mr. BARTON of Texas, Mr. PETERSON of Minnesota, Mr. BOB SCHAFFER of Colorado, Mr. LINDER, Mr. METCALF, Mr. SOUDER, Mr. NUSSLE, Mr. SHADEGG, Mr. WELDON of Florida, Mr. KLUG, Mr. ROHRABACHER, and Mr. DICKEY) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 5, United States Code, to permit the use of medical savings accounts under the health benefits program for Federal employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employees
5 Health Care Freedom of Choice Act”.

6 **SEC. 2. AMENDMENTS TO TITLE 5, UNITED STATES CODE.**

7 (a) DEFINITIONS.—Section 8901 of title 5, United
8 States Code, is amended—

9 (1) in paragraph (10) by striking “and” after
10 the semicolon;

11 (2) in paragraph (11) by striking the period
12 and inserting a semicolon; and

13 (3) by adding at the end the following:

14 “(12) the term ‘high deductible health plan’
15 means a plan described by section 8903(5) or sec-
16 tion 8903a(d); and

17 “(13) the term ‘medical savings account’ has
18 the meaning given such term by section 220(d) of
19 the Internal Revenue Code of 1986.”.

20 (b) AUTHORITY TO CONTRACT FOR HIGH DEDUCT-
21 IBLE HEALTH PLANS.—Section 8902 of title 5, United
22 States Code, is amended by adding at the end the follow-
23 ing:

1 “(p)(1) The Office shall contract under this chapter
2 for a high deductible health plan with any qualified carrier
3 that—

4 “(A) offers such a plan; and

5 “(B) as of the date of enactment of the Federal
6 Employees Health Care Freedom of Choice Act, of-
7 fers a health benefits plan under this chapter.

8 “(2) The Office may contract under this chapter for
9 a high deductible health plan with any qualified carrier
10 that—

11 “(A) offers such a plan; but

12 “(B) does not satisfy the requirement under
13 paragraph (1)(B).”.

14 (c) DESCRIPTION OF HIGH DEDUCTIBLE HEALTH
15 PLANS AND BENEFITS TO BE PROVIDED THERE-
16 UNDER.—

17 (1) IN GENERAL.—Section 8903 of title 5,
18 United States Code, is amended by adding at the
19 end the following:

20 “(5) HIGH DEDUCTIBLE HEALTH PLANS.—(A)
21 One or more plans described by paragraph (1), (2),
22 (3), or (4), which—

23 “(i) are high deductible health plans (as
24 defined by section 220(c)(2) of the Internal
25 Revenue Code of 1986); and

1 “(ii) provide benefits of the types referred
2 to by section 8904(a)(5).

3 “(B) Nothing in this section shall be consid-
4 ered—

5 “(i) to prevent a carrier from simulta-
6 neously offering a plan described by subpara-
7 graph (A) and a plan described by paragraph
8 (1) or (2);

9 “(ii) to require that a high deductible
10 health plan offer two levels of benefits; or

11 “(iii) to allow, in any contract year, for—

12 “(I) more than one plan to be offered
13 which satisfies both subparagraph (A) and
14 paragraph (1) (subject to clause (ii)); and

15 “(II) more than one plan which satis-
16 fies both subparagraph (A) and paragraph
17 (2) (subject to clause (ii)).”.

18 (2) TYPES OF BENEFITS.—Section 8904(a) of
19 title 5, United States Code, is amended by inserting
20 after paragraph (4) the following:

21 “(5) HIGH DEDUCTIBLE HEALTH PLANS.—Ben-
22 efits of the types named under paragraph (1) or (2)
23 of this subsection or both.”.

24 (3) CONFORMING AMENDMENTS.—(A) Section
25 8903a of title 5, United States Code, is amended by

1 redesignating subsection (d) as subsection (e) and by
2 inserting after subsection (c) the following:

3 “(d) The plans under this section may include one
4 or more plans, otherwise allowable under this section, that
5 satisfy the requirements of clauses (i) and (ii) of section
6 8903(5)(A).”.

7 (B) Section 8909(d) of title 5, United States
8 Code, is amended by striking “8903a(d)” and insert-
9 ing “8903a(e)”.

10 (4) REFERENCES.—Section 8903 of title 5,
11 United States Code, is amended by adding at the
12 end (as a flush left sentence) the following:

13 “The Office shall prescribe regulations under which the
14 requirements of section 8902(c), 8902(n), 8909(e), and
15 any other provision of this chapter that applies with re-
16 spect to a plan described by paragraph (1), (2), (3), or
17 (4) of this section shall apply with respect to the cor-
18 responding plan under paragraph (5) of this section. Simi-
19 lar regulations shall be prescribed with respect to any plan
20 under section 8903a(d).”.

21 (d) CONTRIBUTIONS TOWARD HIGH DEDUCTIBLE
22 HEALTH PLANS AND MEDICAL SAVINGS ACCOUNTS.—

23 (1) AMENDMENTS.—

24 (A) IN GENERAL.—Title 5, United States
25 Code, is amended by redesignating section

1 8906a as section 8906b and by inserting after
2 section 8906 the following:

3 **“§ 8906a. Contribution provisions relating to certain**
4 **individuals enrolled in high deductible**
5 **health plans**

6 “(a) In the case of an employee or annuitant who
7 enrolls in a high deductible health plan, section 8906 shall
8 apply in accordance with its terms, except as otherwise
9 provided in this section.

10 “(b) Instead of the amount that would otherwise
11 apply under the provisions of section 8906(d), the amount
12 to be withheld under such provisions from the pay or an-
13 nuity of an employee or annuitant described in subsection
14 (a), for any biweekly or other period, shall be the equiva-
15 lent (expressed in terms of such periods) of the amount
16 by which—

17 “(1) the applicable average subscription charge,
18 as determined under section 8906(a) for the con-
19 tract year involved, exceeds

20 “(2) the total Government contribution allow-
21 able for such contract year (as defined in subsection
22 (h)),

23 but not to exceed 100 percent of the subscription charge
24 for the plan in which such employee or annuitant is en-
25 rolled.

1 “(c) Instead of the amount that would otherwise
2 apply under the provisions of section 8906(b), in the case
3 of an employee or annuitant described in subsection (a),
4 the biweekly or other periodic Government contribution
5 under such provisions toward the subscription charge for
6 the plan in which such employee or annuitant is enrolled
7 shall be the amount by which such charge exceeds (if at
8 all) the amount which under subsection (b) is required to
9 be withheld from the pay or annuity of the employee or
10 annuitant involved.

11 “(d)(1) Subject to paragraph (2), there shall be paid
12 to the medical savings account of each employee or annu-
13 itant described in subsection (a), at the same time that
14 the Government contribution under section 8906 is made
15 (or would, but for this section, be made) for the benefit
16 of such employee or annuitant, the amount by which—

17 “(A) the total Government contribution allow-
18 able for the contract year involved (as defined in
19 subsection (h)), exceeds

20 “(B) the amount of the Government contribu-
21 tion which under subsection (c) is required to be
22 made toward the subscription charge for the plan in
23 which such employee or annuitant is enrolled.

24 No election to decline any contributions under this sub-
25 section shall be available to an employee or annuitant.

1 “(2) No contribution under this subsection shall be
2 made to any medical savings account of an employee or
3 annuitant for any period if, as of the first day of the
4 month before the month in which such period commences,
5 such employee or annuitant (or the spouse of such em-
6 ployee or annuitant, if coverage is for self and family) is
7 entitled to benefits under part A of title XVIII of the So-
8 cial Security Act.

9 “(3) The Office shall by regulation prescribe the time,
10 form, and manner in which an employee or annuitant shall
11 identify any medical savings account to which contribu-
12 tions for such employee or annuitant shall be made under
13 this subsection.

14 “(4) Subsections (f) and (g) of section 8906 shall
15 apply with respect to contributions under this subsection.

16 “(e) Any adjustment in the amount of any contribu-
17 tion under section 8906 that is required by subsection (b)
18 or (c) of this section beginning in any contract year shall
19 take effect—

20 “(1) in the case of an employee, at the point in
21 such year described in the second sentence of section
22 8906(b)(1); and

23 “(2) in the case of an annuitant, at the point
24 in such year described in the third sentence of sec-
25 tion 8906(b)(1).

1 “(f)(1) This section shall not apply to any employee
2 or annuitant with respect to any period for which such
3 employee or annuitant would not otherwise be eligible for
4 a Government contribution under section 8906 (deter-
5 mined disregarding this section).

6 “(2) Neither subsection (b) nor (c) shall apply with
7 respect to an employee or annuitant for any period for
8 which—

9 “(A) such employee or annuitant is ineligible
10 for any contribution under subsection (d) by reason
11 of paragraph (2) thereof; or

12 “(B) the amount of the contribution under sub-
13 section (d) for such employee or annuitant would
14 otherwise be zero.

15 “(g) The Office shall by regulation provide for the
16 application of section 8906(c) to the extent necessary to
17 reflect any change in the ratio of individual to Government
18 contributions resulting from the application of this section.

19 “(h) For purposes of this section, the term ‘total Gov-
20 ernment contribution allowable’, as used with respect to
21 a contract year, means the maximum Government con-
22 tribution that could be made for health benefits for an
23 employee or annuitant for such contract year, as deter-
24 mined under paragraph (1) of section 8906(b) (as well as

1 paragraph (3) thereof, if appropriate, but disregarding
2 paragraph (2) thereof and the provisions of this section).”.

3 (B) TECHNICAL AND CONFORMING AMEND-
4 MENTS.—(i) The table of sections at the begin-
5 ning of chapter 89 of title 5, United States
6 Code, is amended by striking the item relating
7 to section 8906a and inserting the following:

“8906a. Contribution provisions relating to certain individuals enrolled in
high deductible health plans.
“8906b. Temporary employees.”.

8 (ii) Section 8913(b)(4) of title 5, United
9 States Code, is amended by striking
10 “8906a(a)” and inserting “8906b(a)”.

11 (2) HIGH DEDUCTIBLE HEALTH PLANS TO BE
12 DISREGARDED IN DETERMINING GOVERNMENT CON-
13 TRIBUTIONS.—Section 8906 of title 5, United States
14 Code, is amended by adding at the end the follow-
15 ing:

16 “(j) Notwithstanding any other provision of this sec-
17 tion, there shall not be taken into account, for purposes
18 of computing any average under subsection (a), any sub-
19 scription charge for any high deductible health plan or any
20 individuals enrolled therein.”.

21 (3) COORDINATION PROVISION.—Nothing in
22 this section or in any amendment made by this sec-
23 tion shall be considered to affect any authority
24 under section 1005(f) of title 39, United States

1 Code, to vary, add to, or substitute for any provision
2 of chapter 89 of title 5, United States Code, as
3 amended by this section.

4 (4) TECHNICAL AMENDMENT.—The second sen-
5 tence of section 8909(a) of title 5, United States
6 Code, is amended by inserting “(not including any
7 Government contributions under section 8906a to a
8 medical savings account)” after “of this title”.

9 (e) INFORMATION TO INDIVIDUALS WHO MAY BE
10 ELIGIBLE FOR GOVERNMENT CONTRIBUTIONS TO A MED-
11 ICAL SAVINGS ACCOUNT.—Section 8907 of title 5, United
12 States Code, is amended by adding at the end the follow-
13 ing:

14 “(c) In addition to any information otherwise pro-
15 vided for under this section, the Office shall make avail-
16 able to all employees and annuitants eligible to enroll in
17 a high deductible health plan, in a form acceptable to the
18 Office after consultation with the carrier, information re-
19 lating to—

20 “(1) the conditions under which a Government
21 contribution shall be made under this chapter to a
22 medical savings account;

23 “(2) the amount of the Government contribu-
24 tion payable under this chapter to a medical savings

1 account (or how such amount may be ascertained);
2 and

3 “(3) any other matter which the Office consid-
4 ers appropriate in connection with medical savings
5 accounts.”.

6 (f) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to contract years be-
8 ginning on or after January 1, 1999. The Office of Per-
9 sonnel Management shall take appropriate measures to
10 ensure that coverage under a high deductible health plan
11 under chapter 89 of title 5, United States Code (as
12 amended by this section) shall be available as of the begin-
13 ning of the first contract year described in the preceding
14 sentence.

15 **SEC. 3. AMENDMENTS TO THE INTERNAL REVENUE CODE**
16 **OF 1986.**

17 (a) INCLUSION OF EMPLOYEES ENROLLED IN
18 FEHBP HIGH DEDUCTIBLE HEALTH PLAN.—Clause
19 (iii) of section 220(c)(1)(A) of the Internal Revenue Code
20 of 1986 (defining eligible individual) is amended by strik-
21 ing “or” at the end of subclause (I), by striking the period
22 at the end of subclause (II) and inserting “, or”, and by
23 adding at the end the following new subclause:

24 “(III) the high deductible health
25 plan covering such individual is pro-

1 vided under chapter 89 of title 5,
2 United States Code.”.

3 (b) CONTRIBUTIONS LIMITED TO FEDERAL CON-
4 TRIBUTION.—Subsection (b) section 220 of such Code (re-
5 lating to limitations) is amended by adding at the end the
6 following new paragraph:

7 “(8) DENIAL OF DEDUCTION FOR INDIVIDUALS
8 COVERED BY HIGH DEDUCTIBLE FEDERAL EM-
9 PLOYEE HEALTH BENEFITS PLAN.—The limitation
10 under this subsection for any month with respect to
11 any individual shall be zero if, as of the first day of
12 such month, such individual is covered under a high
13 deductible health plan provided under chapter 89 of
14 title 5, United States Code. For purposes of apply-
15 ing section 106(b) for such month—

16 “(A) the preceding sentence shall not
17 apply, and

18 “(B) paragraph (4) shall not apply to any
19 individual who is entitled to receive any amount
20 for such month by reason of being an annuitant
21 (as defined in section 8901(3) of such title 5).”.

22 (c) NUMERICAL LIMITATIONS, ETC., NOT TO
23 APPLY.—

1 (1) IN GENERAL.—Subsection (i) of section 220
2 of such Code is amended by adding at the end the
3 following new paragraph:

4 “(6) EXCEPTION FOR INDIVIDUALS COVERED
5 BY FEDERAL EMPLOYEE HEALTH BENEFITS
6 PLANS.—This subsection shall not apply to any indi-
7 vidual who is an eligible individual by reason of sub-
8 section (c)(1)(A)(iii)(III). Medical savings accounts
9 established by such individuals shall not be taken
10 into account in determining whether the numerical
11 limitations under subsection (j) are exceeded.”.

12 (2) EXCEPTION FROM REPORTING.—Paragraph
13 (4) of section 220(j) of such Code is amended by
14 adding at the end the following new subparagraph:

15 “(E) EXCEPTION FOR ACCOUNTS OF INDI-
16 VIDUALS COVERED BY FEDERAL EMPLOYEE
17 HEALTH BENEFITS PLANS.—No report shall be
18 required under this paragraph with respect to a
19 medical savings account of an individual if such
20 account was established at the time such indi-
21 vidual was an eligible individual by reason of
22 subsection (c)(1)(A)(iii)(III).”.

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