

616 Fifth Avenue, Suite 106
Belmar, NJ 07719
732-201-4133
CHIEF EXECUTIVE OFFICER: Will Melofchik



PRESIDENT: Asw. Pamela Hunter, NY
VICE PRESIDENT: Sen. Paul Utke, MN
TREASURER: Rep. Edmond Jordan, LA
SECRETARY: Rep. Jim Dunnigan, UT

IMMEDIATE PAST PRESIDENT:
Rep. Tom Oliverson M.D., TX

National Council of Insurance Legislators (NCOIL)

Health Savings Account State-Federal Regulatory Coordination Model Act

**Sponsored by Rep. Jim Dunnigan (UT), NCOIL Secretary*

**Co-sponsored by Sen. Jerry Klein (ND) and Rep. Ellyn Hefner (OK)*

**Adopted by the NCOIL Joint State-Federal Relations & International Insurance Issues Committee on July 17, 2025, and the NCOIL Executive Committee on July 19, 2025.*

Table of Contents

Section 1.	Title
Section 2.	Purpose
Section 3.	Definitions
Section 4.	Cost-Sharing for Health Savings Account Qualified Health Insurance Plan
Section 5.	Rules
Section 6.	Effective Date

Section 1. Title.

This Act shall be known as the “Health Savings Account State-Federal Regulatory Coordination Model Act”.

Section 2. Purpose.

The purpose of this Act is to adopt a provision embedded in one or more chapters or sections* of the state insurance code to protect the efficacy of Health Savings Account (“HSA”) qualified plans via a legislative exception or “safe harbor” from any state benefit mandate or copay accumulator adjustment law, due to federal law, rules, or guidance regarding “high deductible health plans”. Certain state benefit mandate bills require zero cost-sharing or contain other cost-sharing restrictions which conflict with federal law, rules and guidance for such plans. In other cases, some state bills define “preventive care” differently than under federal law which also creates conflict.

**Drafting Note: The term “chapter” can be used, or “section” or other term such as “title” as found in the applicable insurance law or code.*

Section 3. Definitions.

- (A) “Enrollee” means an individual who is enrolled in a health insurance plan, whether on an individual or a group basis, including any covered dependent.
- (B) “High Deductible Health Plan” means a health insurance plan, as defined in Section 223(c)(2) of the Internal Revenue Code, Title 26 of the United States Code.
- (C) “Health Savings Account Qualified Insurance Plan.” A high deductible health plan that meets the specific requirements in Section 223 of the United States Internal Revenue Code, as interpreted and administered by the federal Internal Revenue Service (“IRS”). Individuals covered by such a plan may contribute to a Health Savings Account (“HSA”)—a trust or custodial account for qualified medical expenses. However, individuals cannot contribute to an HSA unless they are covered by an HSA-qualified insurance plan and have no other disqualifying coverage. An eligible individual can deduct contributions from income taxes, and employers and employees may contribute on a “pre-tax” basis through payroll deduction. HSA owners may use deposited funds tax-free for qualified medical expenses incurred by themselves and eligible dependents.
- (D) “Preventive Care” means those services defined as “preventive care” by the U.S. Department of the Treasury and the Internal Revenue Service (which includes preventive services recognized under the Affordable Care Act), pursuant to regulation or guidance issued under the authority of Title 26 of the United States Code. In general, “preventive care” does not include services that provide treatment for known illnesses, diseases or conditions. However, under IRS Notice 2019-45, “preventive care” now also includes specified products and services provided to individuals with certain defined chronic conditions (e.g., diabetes, asthma, heart disease, etc.).
- (E) “Zero cost-sharing” or “cost-sharing restrictions” means prohibition outright of any deductible, copayments, or coinsurance on the part of the enrollee or certain limitations on the amount of such deductible, copayments, or coinsurance.

Section 4. Cost-Sharing for a Health Savings Account Qualified Health Insurance Plan.

If under federal law, the application of any cost-sharing requirement of this chapter/code/title* would cause the enrollee's health savings account plan to no longer qualify as a high-deductible health plan under 26 U.S.C. § 223, then the cost-sharing requirement shall only apply to the enrollee's plan once the minimum deductible under 26 U.S.C. § 223 has been applied.

**Drafting Note: Other applicable terms, such as “the state insurance code,” can be used as found in the applicable insurance law or code.*

Section 5. Rules.

The commissioner shall promulgate rules necessary to carry out this Act.

Section 6. Effective Date

This Act shall take effect xxxxxxxx.

**Drafting Note: States may differ on where this provision should be placed and it would be important to identify all the correct sections in the Insurance Code and in some cases, the Health and Safety Code or Health Code. As to the Insurance Code, if the state has different sections governing health plans, nonprofit hospitals, HMOs, medical service corporations, the state employee health plan (that offers HSAs coupled with a high deductible health plan), the same amendment would need to be affixed to each to ensure comprehensive treatment, as identified by the bill drafters or bill drafting commission, as the case may be.*