

Must an Employer Verify an Employee's Eligibility for an HSA?

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QUESTION: Our company is thinking about adding a high-deductible health plan (HDHP)/health savings account (HSA) option, under which it would contribute to eligible employees' HSAs. Must our company verify each employee's HSA eligibility before it makes those contributions?

ANSWER: An employer is not required to verify an employee's HSA eligibility before contributing to the employee's HSA. Rather, the employer is only responsible for determining the following with respect to each employee:

- whether the employee is covered under an HDHP or a non-HDHP (e.g., a general-purpose health FSA or HRA) sponsored by that employer; and
- the employee's age, for determining whether the employee is eligible for age 55 catch-up contributions (the employer may rely on employees' representations as to their dates of birth).

An IRS official has informally commented that the burden of determining HSA eligibility falls almost entirely on the employee and that the employer generally will not be liable if it turns out the employee is ineligible for an HSA. When employers contribute to their employees' HSAs, however, they must have a reasonable belief that the contributions will be excludable from the employees' income. Without this reasonable belief, the contribution will be subject to federal employment taxes (e.g., income tax withholding and FICA).

While employers are not required to do so, many provide educational materials or interactive tools to help employees determine whether they are eligible for an HSA. Employees who are enrolled in your HDHP would be eligible for HSA contributions if they have no disqualifying coverage (e.g., from another employer or obtained independently), are not entitled to (i.e., eligible for and enrolled in) Medicare benefits, and cannot be claimed as another individual's tax dependent. While you are not required to verify employees' satisfaction of those requirements, you might nevertheless choose to ask employees to certify that they meet those eligibility criteria. Doing so will help avoid making contributions for an ineligible individual and may also help employees understand the HSA eligibility rules.

For more information, see EBIA's Consumer-Driven Health Care manual at Sections IX ("HSAs: Who Is Eligible?"), XII.H ("HSA Catch-Up Contributions"), XII.I ("Employer HSA Contributions"), and XIX.B.6 ("Designing and Implementing a Workplace HSA Program: Design Employee Communication").

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