

110TH CONGRESS  
1ST SESSION

# S. 173

To amend title XVIII of the Social Security Act to establish Medicare Health Savings Accounts.

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IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. INHOFE (for himself and Mr. DEMINT) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to establish  
Medicare Health Savings Accounts.

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 “Medicare Health Sav-  
5 ings Accounts Act of 2007”.

6 **SEC. 2. ESTABLISHMENT OF MEDICARE HEALTH SAVINGS**  
7 **ACCOUNTS.**

8 (a) ESTABLISHMENT.—

9 (1) IN GENERAL.—Title XVIII of the Social Se-  
10 curity Act (42 U.S.C. 1395 et seq.) is amended—

1 (A) by redesignating part E as part F; and

2 (B) by inserting after part D the following

3 new part:

4 “PART E—MEDICARE HEALTH SAVINGS ACCOUNTS

5 “ENTITLEMENT TO ELECT TO RECEIVE BENEFITS UNDER

6 MEDICARE HEALTH SAVINGS ACCOUNTS

7 “SEC. 1860E–1. (a) IN GENERAL.—The Secretary  
8 shall establish procedures under which each eligible bene-  
9 ficiary (as defined in subsection (b)) shall be entitled to  
10 elect to receive benefits under a Medicare Health Savings  
11 Account under this part instead of benefits under parts  
12 A, B, or D.

13 “(b) ELIGIBLE BENEFICIARY DESCRIBED.—An eligi-  
14 ble beneficiary described in this subsection is an individual  
15 who—

16 “(1) is entitled to benefits under part A or en-  
17 rolled under part B;

18 “(2) has a health savings account (as defined in  
19 subsection (d) of section 223 of the Internal Rev-  
20 enue Code of 1986), or certifies that they will use  
21 funds provided under this part to establish such an  
22 account; and

23 “(3) is enrolled under a high deductible health  
24 plan (as defined in subsection (c)(2) of such section,  
25 except that section 223(c)(2)(A)(ii)(I) of such Code

1 shall be applied by substituting ‘the amount in effect  
2 under clause (i)(I)’ for ‘\$5,000’).

3 “(c) BENEFITS TO BE AVAILABLE IN 2008.—The  
4 Secretary shall establish the procedures under subsection  
5 (a) in a manner such that Medicare Health Savings Ac-  
6 counts are available for years beginning on or after Janu-  
7 ary 1, 2008.

8 “(d) PRESERVATION OF ORIGINAL MEDICARE FEE-  
9 FOR-SERVICE BENEFITS.—Nothing in this part shall be  
10 construed to limit the right of an individual who is entitled  
11 to benefits under part A or enrolled under part B to re-  
12 ceive benefits under such part (or under part C or D) if  
13 an election to receive benefits under Medicare Health Sav-  
14 ings Accounts under this part is not in effect with respect  
15 to such individual.

16 “(e) RULE OF CONSTRUCTION.—Nothing in this part  
17 shall be construed as preventing an individual from depos-  
18 iting personal funds (subject to the contribution limita-  
19 tions under section 223 of the Internal Revenue Code of  
20 1986) into a Medicare Health Savings Account.

21 “MEDICARE HEALTH SAVINGS ACCOUNTS PROGRAM

22 “SEC. 1860E–2. (a) IN GENERAL.—The Secretary  
23 shall establish a program to be known as the Medicare  
24 Health Savings Accounts program (in this part referred  
25 to as the ‘Medicare HSA program’).

26 “(b) AMOUNT PROVIDED TO ENROLLEES.—

1           “(1) AMOUNT.—The Secretary shall establish  
2 procedures to ensure that, for each plan year an in-  
3 dividual is enrolled in the Medicare HSA program,  
4 the Secretary shall provide to such individual an  
5 amount that is equal to 95 percent of the annual  
6 MA capitation rate (as calculated under section  
7 1853(e)(1)) with respect to that individual for the  
8 Medicare Advantage payment area the individual is  
9 in.

10           “(2) PERMISSIBLE USE OF AMOUNT.—The Sec-  
11 retary shall establish procedures to ensure that the  
12 amount provided under paragraph (1) is used only  
13 for the following purposes:

14           “(A) As a contribution into a health sav-  
15 ings account established by such individual, as  
16 described in paragraph (2) of section 1860E-  
17 1(b).

18           “(B) For payment of premiums for enroll-  
19 ment of such individual under a high deductible  
20 health plan described in paragraph (3) of such  
21 section.

22           “(3) NOTIFICATION OF AMOUNT PROVIDED.—  
23 The Secretary shall ensure that, not later than the  
24 date that is 90 days before the date on which pay-  
25 ment of the amount provided under paragraph (1)

1 is made to an individual enrolled in the Medicare  
2 HSA program, such individual receives notification  
3 of such amount. Such information shall be made  
4 available on the website of the Centers for Medicare  
5 & Medicaid Services (based on the age and geo-  
6 graphic location of the beneficiary) and through 1-  
7 800-MEDICARE.

8 “(4) PAYMENT.—Payment of the amount pro-  
9 vided under paragraph (1) shall be made from the  
10 Federal Hospital Insurance Trust Fund and the  
11 Federal Supplementary Medical Insurance Trust  
12 Fund (including the Medicare Prescription Drug Ac-  
13 count within such Trust Fund) in such proportion  
14 as the Secretary determines appropriate.

15 “(5) RECOVERY OF AMOUNT PROVIDED IN CASE  
16 OF TERMINATION.—

17 “(A) IN GENERAL.—In the case of a termi-  
18 nation of an election to receive benefits under  
19 this part as of a month before the end of a plan  
20 year, the Secretary shall provide for a proce-  
21 dure for the recovery of amounts provided at-  
22 tributable to the remaining months in such  
23 year.

24 “(B) PENALTY.—

1                   “(i) IN GENERAL.—In addition to the  
2                   amount recovered under subparagraph (A),  
3                   if the Secretary determines there was  
4                   fraud involved in such termination, the  
5                   Secretary may apply a civil money penalty  
6                   of not more than 25 percent of the amount  
7                   recovered.

8                   “(ii) CIVIL MONEY PENALTY.—The  
9                   provisions of section 1128A (other than  
10                  subsections (a) and (b)) shall apply to a  
11                  civil money penalty under this subpara-  
12                  graph in the same manner as they apply to  
13                  a civil money penalty or proceeding under  
14                  section 1128A(a).

15                  “(c) PAYMENT FOR ITEMS AND SERVICES.—The Sec-  
16                  retary shall establish procedures under which providers of  
17                  services and suppliers (as defined in sections 1861(u) and  
18                  1861(d), respectively) are required to accept as payment  
19                  for items and services provided to an individual enrolled  
20                  in the Medicare HSA program under this part the amount  
21                  that would otherwise be paid under the original Medicare  
22                  fee-for-service program under parts A and B.

23                  “ELECTION OF BENEFITS UNDER MEDICARE HSA  
24                  PROGRAM; TERMINATION OF ELECTION

25                  “SEC. 1860E–3. The Secretary shall establish proce-  
26                  dures for the election of benefits, and the termination of

1 such election, as appropriate, under the Medicare HSA  
2 program.”.

3 (2) CONFORMING REFERENCES TO PREVIOUS  
4 PART E.—Any reference in law (in effect before the  
5 date of the enactment of this Act) to part E of title  
6 XVIII of the Social Security Act is deemed a ref-  
7 erence to part F of such title (as in effect after such  
8 date).

9 (b) AMENDMENT OF INTERNAL REVENUE CODE OF  
10 1986.—

11 (1) IN GENERAL.—Paragraph (7) of section  
12 223(b) of the Internal Revenue Code of 1986 (relat-  
13 ing to medicare eligible individuals) is amended to  
14 read as follows:

15 “(7) MEDICARE ELIGIBLE INDIVIDUALS.—The  
16 limitation under this subsection for any month with  
17 respect to an individual shall be zero for any month  
18 such individual is entitled to benefits under part A,  
19 B, or D of title XVIII of the Social Security Act.”.

20 (2) EFFECTIVE DATE.—The amendment made  
21 by this subsection shall apply to taxable years begin-  
22 ning on or after January 1, 2008.

23 (c) SUNSET OF MSA PROVISIONS.—Section  
24 1851(a)(2)(B) of the Social Security Act (42 U.S.C.  
25 1395w-21(a)(2)(B)) is amended—

1           (1) by striking “MSA.— An MSA plan,” and  
2 inserting the following: “MSA.—

3                   “(i) Subject to clause (ii), an MSA  
4                   plan,”; and

5           (2) by inserting after clause (i), as added by  
6 paragraph (1), the following new clause:

7                   “(ii) Beginning on January 1, 2008,  
8                   the plan described in clause (i) shall not be  
9                   available as a Medicare Advantage plan  
10                  under this part.”.

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