



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D. C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable Susan W. Brooks
Member, U.S. House of Representatives
120 East 8th Street, Suite 101
Anderson, IN 46016

Attention:

Dear Representative Brooks:

I am responding to your inquiry dated December 7, 2015, on behalf your constituent, . He wrote about the maximum out of pocket requirements for a high deductible health plan (HDHP) that supports a health savings account (HSA) contribution.

As your constituent noted, under section 223(c)(2)(A)(ii)(I) of the Internal Revenue Code (the Code), the maximum out of pocket amount for a self-only plan to qualify as an HDHP for 2015 was \$6,450. Under section 1302(c) of the Affordable Care Act (ACA), the maximum allowable out of pocket amount for self-only coverage by most health plans for 2015 (whether or not the plan was intended to be an HDHP) was \$6,600. For 2016, the maximum amounts are \$6,550 for the HDHP limitation and \$6,850 for the general limitation.

The difference arises because the respective statutes provide different methods for adjusting the amounts for inflation after 2014, which has resulted in a larger adjustment for the general limitation than for the HDHP limitation. Because these are maximums, a plan satisfying the lower HDHP limitation also satisfies the general limitation requirement under section 1302(c) of the ACA. However, a plan with the maximum out of pocket amount permissible under the general limitation exceeds the HDHP limitation, and therefore is not an HDHP and does not support a contribution to an HSA.

No provision in the Code allows exceptions to the HDHP requirements for plans that do not meet the minimum deductible or maximum out of pocket requirements.

I hope this information is helpful. If you have any questions, please call me at
or at .

Sincerely,

Christine Ellison, Acting Chief,
Health and Welfare Branch,
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)