REPORT OF THE COUNCIL ON MEDICAL SERVICE

CMS Report 10 - I-99

Subject: Critical Expansion of Medical Savings Accounts

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Referred to: Reference Committee A
(Jerome Bobruff, MD, Chair)

Longstanding AMA policy supports Medical Savings Accounts (MSAs) as a health insurance option (Policies H-165.895[2] and H-165.920[7], AMA Policy Compendium). MSAs are a market approach, rather than a regulatory approach, to our health system problems, particularly the rising cost of medical care, "job lock" associated with traditional employer-based health benefits, and restrictions on choice imposed by most employer-based plans. MSAs allow individuals to determine the value of health care by spending their own money rather than what they perceive as someone else's money when they have traditional pre-paid coverage. MSAs encourage patient access to a wider range of services, such as preventive services, long-term care, prescription drugs, optical services, infertility treatment, and other benefits often not covered by conventional plans. Most important, MSAs allow the individual, not a third party, to choose their physician, plan, treatment, and range of services that best meet his or her needs.

This report reviews the current status of MSAs, including the reasons for disappointing sales of MSA products; reviews bills pending before Congress to repeal restrictions on MSA availability; discusses current MSA marketing and product development activities; and highlights key AMA policy.

CURRENT STATUS OF MSAs

The AMA, and many physicians individually and in small groups, devoted significant resources to advocating MSAs before federal legislation was passed in 1996 authorizing a limited number of MSAs for specific segments of the population. This legislation, The Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), established a demonstration of MSAs in which a maximum of 750,000 MSA accounts could be opened. Contrary to initial expectations, MSA sales proceeded slowly. On September 30, 1999, the Internal Revenue Service reported that a total of 42,477 tax returns reporting contributions to MSAs were filed for 1998. Surprisingly, 10,106 or 24% of those returns were from tax payers who were previously uninsured.

A number of reasons have been cited for the poor sales of MSAs:

- Eligibility is restricted to the population that is least likely to be insured.

- Rigid restrictions on product design imposed by the legislation do not permit products to be tailored to consumer demand.

- Brokers and agents are not well trained to sell MSAs because of the complexity of their tax effects.

- Commissions are generally lower for the high-deductible products sold with MSAs than for more comprehensive products.

- Brokers often receive little or no commission for selling the savings component of the MSA.

- The general public has difficulty understanding the complexity of MSAs. Brokers and agents must spend more time selling MSAs than when selling other health insurance products that often pay higher commissions.

RECENT CONGRESSIONAL ACTIVITY

There is considerable sympathy in Congress for removing the restrictions on MSAs. A number of almost identical MSA "expansion" bills have been introduced in the 106th Congress by Sen. Trent Lott (S.300); Sen. James Inhofe (S.657); Sen. Charles Grassley (S.1350); Rep. Michael Bilirakis (H.R. 448); Rep. Bill Archer (H.R. 614); and Rep. Charles Norwood (H.R. 1136). All of the bills contain provisions to:

- Repeal the limitation on the number of MSAs;

- Expand eligibility to employees of any size employer;

- Increase the income tax deduction for the contribution to the MSA to 100%;

- Allow both employees and employers to contribute to MSAs (except S.300, which retains the current limitation);

- Reduce the permitted annual minimum deductibles; and

- Allow MSAs to be offered in cafeteria plans provided by employers.

MSA MARKETING AND PRODUCT DEVELOPMENT ACTIVITIES

Companies with a financial interest in MSAs are proceeding to develop, package, and market innovative products built around MSAs on the assumption that lobbying for MSA expansion through their MSA advocacy organization, the Council for Affordable Health Insurance, will be successful. Some of these path breaking products combine a PPO, investment services, a debit card, and software, hardware and electronic networks connecting insurers, MSA account administrators, and physicians to facilitate real-time processing of transactions.

KEY AMA POLICY

Current AMA policy addresses MSA expansion as well as promoting MSAs to the public and physicians. For example, Policy H-165.879 directs the AMA to work for the immediate offering of MSAs to all individuals without restrictions with regard to company size or the total number of MSA enrollees; to encourage consumers to obtain their MSAs from a wide variety of sources; and to encourage employees with dual coverage through a spouse's health plan to consider the

establishment of MSAs. Policy H-180.957 directs the AMA to pursue activities to inform physicians and the public about the value and availability of MSAs, including using the AMA Web Site as a key information medium for this purpose. Accordingly, the AMA Web Site contains pages that describe why the AMA supports MSAs, describe MSA eligibility rules, and provide a listing of companies offering MSAs.

DISCUSSION

Development and advocacy of the MSA concept has almost completed the transit from the policy development and advocacy stage to the business implementation stage. With the exception of "expansion" legislation, further development of MSAs will proceed in the market place where they will be subject to the market test. This test includes not only whether they offer intrinsic value to consumers, but also whether vendors can package and market them to expand consumer demand. Aside from fundamental insurance market reform, which could substantially change the environment for MSAs, there is little additional policy development and advocacy work to be done by the AMA. Nonetheless, the Council believes that the AMA should continue to actively include the advocacy of MSAs, and MSA expansion legislation in its ongoing campaign for health insurance market reform.

The Council believes that opportunity remains to develop approaches for expanding the availability and applicability of MSAs to children. For example, under the current estate tax treatment of MSAs, an MSA ceases to be an MSA except in a bequest to a surviving spouse beneficiary. Consequently, individuals who might wish to pass their MSA on to a child or grandchild can not do so. Similarly, individuals who might wish to establish independent health expense protection through an MSA for a child or grandchild cannot do so under current law. The Council will continue to assess potential ways to adapt MSAs and the laws and regulations governing their design to the health insurance needs of children.

RECOMMENDATIONS

The Council on Medical Service recommends that the following be adopted and that the remainder of this report be filed:

1. That the AMA continue to incorporate advocacy of Medical Savings Accounts (MSAs) prominently in its campaign for health insurance market reform.

2. That the AMA should enhance activities to educate patients about the advantages and opportunities of MSAs.

3. That the AMA continue to advocate repeal of the current restrictions on Medical Savings Accounts by:

   (a) Permanently repealing the limit on the number of MSAs and removing the demonstration status of the project;

   (b) Expanding eligibility to employees of any size employer and to any individual;

   (c) Increasing the income tax deduction for the contribution to the MSA to 100%;

   (d) Allowing both employees and employers to contribute to MSAs;

(e) Reducing the permitted annual minimum deductibles and allowing unlimited annual maximum deductibles;

(f) Allowing MSAs to be offered in cafeteria plans provided by employers.

(g) Allowing individuals with pre-existing medical conditions, who have been covered by medical insurance during the previous 12 months, to participate in an MSA without penalty; and

(h) Allowing those covered by MSAs to collectively form a group purchasing arrangement for pharmaceuticals and other services.

4. That the AMA should continue to monitor and encourage the efforts by companies to develop, package, and market innovative products built around MSAs.

5. That the AMA should explore the formation of a MSA, to be offered to AMA physicians through its own medical insurance programs.