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S.41

Introduced by Senators Bray, Balint, Baruth, Benning, Campion and Ingram

Referred to Committee on Finance

Date: January 22, 2019

Subject: Health; health insurance; Department of Financial Regulation; health
reimbursement arrangements

Statement of purpose of bill as introduced: This bill proposes to direct the
Department of Financial Regulation to adopt rules regulating entities that
administer health reimbursement arrangements.

~~An act relating to regulating entities that administer health reimbursement
arrangements~~

*An act relating to regulating entities that administer tax-advantaged
accounts for health-related expenses*

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 18 V.S.A. § 9417 is added to read:~~

~~§ 9417. HEALTH REIMBURSEMENT ARRANGEMENTS;~~

~~ADMINISTRATION; RULEMAKING~~

~~(a) As used in this section, “health reimbursement arrangement” has the
same meaning as in 26 U.S.C. § 9831(d)(2).~~

~~(b) The Department of Financial Regulation shall adopt rules pursuant to
5 V.S.A. Chapter 25 to regulate entities administering, or proposing to~~

1 ~~administer, one or more health reimbursement arrangements on behalf of~~
2 ~~public or private employers, or both, in this State. The rules shall include:~~

3 ~~(1) annual licensure, registration, or other regulatory structure for~~
4 ~~entities administering, or proposing to administer, one or more health~~
5 ~~reimbursement arrangements in this State;~~

6 ~~(2) minimum qualifications for an entity to administer health~~
7 ~~reimbursement arrangements in this State; and~~

8 ~~(3) such bonding, surplus, or reserve requirements, or a combination~~
9 ~~thereof, as the Department deems appropriate for the protection of employers~~
10 ~~and employees who depend on the entity for administration of their health~~
11 ~~reimbursement arrangements.~~

12 Sec. 2. EFFECTIVE DATE

13 ~~This act shall take effect on passage.~~

~~Sec. 1. 18 K.S.A. § 9417 is added to read:~~

~~§ 9417. TAX-ADVANTAGED ACCOUNTS FOR HEALTH EXPENSES;
ADMINISTRATION; RULEMAKING~~

~~(a) As used in this section:~~

~~(1) "Flexible spending account" or "FSA" has the same meaning as in
26 U.S.C. § 106(c)(2).~~

~~(2) "Health reimbursement arrangement" or "HRA" means any
account-based reimbursement arrangement funded solely by employer
contributions that reimburses an employee, spouse, or dependents, or a
combination thereof, for medical care expenses incurred by the employee,
spouse, dependents, or a combination thereof, up to a maximum coverage
amount set by the employer for a given coverage period, and that is
established pursuant to 26 U.S.C. §§ 105–106 and applicable guidance from
the Internal Revenue Service.~~

~~(2) "Health savings account" or "HSA" has the same meaning as in 26 U.S.C. § 223(d)(1).~~

~~(b) Any entity administering one or more HRAs, HSAs, or FSAs, or a combination of these, in this State is providing financial services to Vermont residents and is subject to the jurisdiction of the Commissioner of Financial Regulation pursuant to 8 V.S.A. § 10 and all other applicable provisions.~~

~~(c) The Commissioner of Financial Regulation shall adopt rules pursuant to 3 V.S.A. chapter 25 to license and regulate, to the extent permitted under federal law, entities administering or proposing to administer one or more HRAs, HSAs, or FSAs, or a combination of these, in this State. The rules may include:~~

~~(1) annual licensure or registration filing requirements; and~~

~~(2) such requirements and qualifications for such entities as the Commissioner determines are appropriate, which may include:~~

~~(A) bonding, surplus, reserves, or a combination thereof;~~

~~(B) information security and confidentiality; and~~

~~(C) examination and enforcement.~~

~~(d) Following the adoption of rules pursuant to subsection (c) of this section, an entity making an initial application for a license or registration to administer HRAs, HSAs, or FSAs, or a combination of these, in this State shall pay to the Commissioner a nonrefundable fee of \$600.00 for examining, investigating, and processing the application. Each such entity shall also pay a renewal fee of \$600.00 on or before December 31 every three years following initial licensure.~~

Sec. 2. RULEMAKING; REPORT

~~On or before February 15, 2020, the Commissioner of Financial Regulation shall provide an update to the Senate Committee on Finance and the House Committees on Health Care and on Commerce and Economic Development on the progress of the rulemaking required by Sec. 1 of this act, including any findings related to the permissible scope of the rule.~~

Sec. 3. EFFECTIVE DATE

~~This act shall take effect on passage, provided that the Department of Financial Regulation shall adopt its final rule on or before September 1, 2020 regulating entities that administer HRAs, HSAs, or FSAs, or a combination of these.~~

Sec. 1. 18 V.S.A. § 9417 is added to read:

§ 9417. TAX-ADVANTAGED ACCOUNTS FOR HEALTH-RELATED EXPENSES; ADMINISTRATION; RULEMAKING

(a) As used in this section:

(1) “Flexible spending account” or “FSA” has the same meaning as in 26 U.S.C. § 106(c)(2).

(2) “Health reimbursement arrangement” or “HRA” means any account-based reimbursement arrangement funded solely by employer contributions that reimburses an employee, spouse, or dependents, or a combination thereof, for medical care expenses incurred by the employee, spouse, dependents, or a combination thereof, up to a maximum coverage amount set by the employer for a given coverage period, and that is established pursuant to 26 U.S.C. §§ 105–106 and applicable guidance from the Internal Revenue Service.

(3) “Health savings account” or “HSA” has the same meaning as in 26 U.S.C. § 223(d)(1).

(b) Any entity administering one or more HRAs, HSAs, FSAs, or similar tax-advantaged accounts for health-related expenses, or a combination of these, in this State is subject to the jurisdiction of the Commissioner of Financial Regulation pursuant to 8 V.S.A. § 10 and all other applicable provisions.

(c) The Commissioner of Financial Regulation shall adopt rules pursuant to 3 V.S.A. chapter 25 to license and regulate, to the extent permitted under federal law, entities administering or proposing to administer one or more HRAs, HSAs, FSAs, or similar tax-advantaged accounts for health-related expenses, or a combination of these, in this State. The rules shall include:

(1) annual licensure or registration filing requirements; and

(2) such requirements and qualifications for such entities as the Commissioner determines necessary to protect Vermont consumers and employers and to help ensure that funds are disbursed appropriately.

(d) Following the adoption of rules pursuant to subsection (c) of this section, an entity making an initial application for a license or registration to administer HRAs, HSAs, FSAs, or similar tax-advantaged accounts for health-related expenses, or a combination of these, in this State shall pay to the Commissioner a nonrefundable fee of \$600.00 for examining, investigating, and processing the application. Each such entity shall also pay a renewal fee of \$600.00 on or before December 31 every three years following initial licensure.

(e) This section shall not apply to an employer that self-administers one or more tax-advantaged accounts on behalf of its own employees.

Sec. 2. RULEMAKING; REPORT

On or before February 15, 2020, the Commissioner of Financial Regulation shall provide an update to the Senate Committee on Finance and the House Committees on Health Care and on Commerce and Economic Development on the progress of the rulemaking required by Sec. 1 of this act, including any findings related to the permissible scope of the rule.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage, provided that the Department of Financial Regulation shall adopt its final rule on or before September 1, 2020 regulating entities that administer HRAs, HSAs, FSAs, or similar tax-advantaged accounts for health-related expenses, or a combination of these.