

## Benecaid Health Spending Account Terms and Conditions

July 2019

The following is a summary prepared by Benecaid of the criteria related to the design of an eligible Benecaid Health Spending Account (“HSA”) based on the interpretations published by the Canada Revenue Agency (“CRA”) and the provisions based on the Income Tax Act of Canada (“ITA”):

### CRA Interpretations applicable to HSA Agreements

- An HSA is used for the purpose of covering eligible medical expenses, subject to various limitations. Eligibility of expenses is as defined in [www.cra-arc.gc.ca/medical](http://www.cra-arc.gc.ca/medical).
- As interpreted by the CRA incorporated businesses, including employees who are shareholders and all other corporate employees, are eligible to participate in an HSA. All participants in this HSA must receive these benefits by virtue of their employment at the company and not as a shareholder benefit and these benefits are provided as part of an employment contract. Corporations with as few as one employee can be eligible so long as the benefits are provided to a shareholder in their capacity as an employee, not as a shareholder. One important factor in this regard is that the shareholder is earning T4 income. In the case of unincorporated businesses or sole proprietors, the owner and their employees are also eligible if the owner has at least one arm’s-length employee. Benecaid believes the CRA interpretation of requiring a Sole Proprietor to have at least one employee is not in keeping with the intention of the ITA and plans to oppose this interpretation. However, sole proprietors in these circumstances assume the risk that the CRA will base audits on their view.
- While there are no limits specified by the ITA for an HSA the CRA has interpreted that benefits must be reasonable and be consistent with what would be offered to a non-arm’s length employee providing similar services. Different limits may be set for different employee groups. Reasonability is not defined in the ITA and is dependent on many factors. Consult a tax advisor to determine what level of contribution would be deemed reasonable in your circumstances.
- Additional details on the CRA’s interpretations are outlined in IT-529.

### Benecaid Plan Design

- The amount to be allocated to an HSA for an employee shall be determined prior to the start of a plan year and can not be altered unless there has been a life event such as a change in the number of dependants through birth, death, marriage or change in eligibility circumstances.
- The declared amount must be fully funded within the plan year based on a payment schedule agreed to between the employer and Benecaid, the plan administrator.

- Claims related to eligible medical expenses incurred during the plan year are to be submitted within 3 months of the end of the plan year. Claims submitted beyond this period will be declined and not reimbursed.
- The HSA is subject to annual fees and/or administrative and claims processing fees.
- Inactive fees are to be assessed if there is a period of 12 months or more in which no eligible claims are made. Any unused balance in the employee's HSA at the end of a plan year may be used by the employee for a maximum of 12 months following the plan year and is subject to forfeiture following this period. Balances are forfeited to the Employer. The Employer must reallocate the funds to another employee's HSA account within 90 days. Failure to reallocate results in forfeiture to Benecaid.
- Upon employee termination from an Employer, the employee has 30 days to submit claims after which time the balance of the employee's HSA account forfeits to the Employer. The Employer then has 90 days in which to reallocate the funds to another employee's HSA account. Failure to reallocate results in forfeiture to Benecaid.

Benecaid makes best efforts to ensure its HSA plans adhere to all ITA rules and to comply with the CRA interpretation and application of those rules with the exception of the CRA interpretation requiring a Sole Proprietor to have at least one employee. Benecaid does not provide tax advice to clients and recommends they seek their own independent advice related to the tax deductibility of health care spending. Benecaid relies on the representations of the client as provided in the application and acknowledgement forms that they meet the eligibility criteria for an HSA and that the amounts contributed are reasonable in their particular circumstances.