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## NCOIL URGES SUPPORT OF HEALTH SAVINGS ACCOUNTS

*Passes Resolution Encouraging State Legislatures to Exempt HSA-Qualified Insurance Plans from Certain State First-Dollar Coverage Mandates*

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Manasquan, NJ – At the recently concluded 2018 NCOIL Annual Meeting in Oklahoma City, the organization unanimously passed a bi-partisan resolution in support of state regulated health savings account-based coverage. The resolution was sponsored by KY Rep. Steve Riggs and ND Sen. Jerry Klein.

Health Savings Accounts (HSAs) are linked to high deductible health plans (HDHPs), which must meet certain requirements, most notably that the plan deductible must apply to all covered benefits received from in-network providers – the only exception being for “preventive care services” as defined by the Internal Revenue Service (IRS).

The resolution aims to advise states to avoid the actions that certain states undertook relating to enacting laws requiring fully-insured plans issued within their borders to cover male sterilization benefits without application of the plan deductible, copays or coinsurance. Those laws effectively made HSAs inoperable in those states because the laws go beyond a clear understanding of what the IRS considers “preventive care services” that could be exempt from the deductible.

Accordingly, the resolution encourages state legislatures to adopt a provision in their state statutes exempting HSA-qualified insurance plans from any requirement, past or future, to cover any benefit without such benefit being subject to the policy deductible, coinsurance, or other cost-sharing unless such benefit is “preventive care” - as defined by the IRS.

“In my final NCOIL meeting as a legislator, I am proud to sponsor a resolution that aims to make health insurance more affordable for consumers and preserve coverage for the millions of Americans with HSAs” stated KY Rep. Steve Riggs, NCOIL Immediate Past President, who did not seek re-election and is retiring at the end of his term. “In my nearly three decades in the state legislature, the increasing cost of health insurance has been alarming and finding ways to save constituents money should be a priority for all lawmakers.”

“Encouraging state legislators to adopt a provision of their state statutes exempting HSA-qualified insurance plans from these particular cost-sharing requirements is imperative so that residents with



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HSAs in those states can continue with coverage without any interruption,” stated ND Sen. Jerry Klein, co-sponsor of the resolution. “Some of the states that created these conflicts in their statutes did so unknowingly, so it is important that NCOIL step in to make sure all states are aware of the problem and provide them with a solution.”

“This is another example of NCOIL ensuring that that legislators understand the broader implication of their actions” said Commissioner Tom Considine, NCOIL CEO. “By communicating this with the Secretary of Health and Human Services NCOIL aims to ensure state regulation of insurance is protected.”

A full copy of the resolution is below.

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## National Council of Insurance Legislators (NCOIL)

### Resolution in Support of State Regulated Health Savings Account-Based Coverage

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*Adopted by the Financial Services Committee on December 6, 2018 and the Executive Committee on December 8, 2018*

*Sponsored by: Rep. Steve Riggs (KY) and Sen. Jerry Klein (ND)*

**WHEREAS**, Health Savings Accounts (HSAs) insure tens-of-millions of Americans in the employer market and millions more who shop within each state’s individual market; and

**WHEREAS**, HSAs are regulated primarily by the Internal Revenue Service (IRS), one critical feature of qualification being the prohibition of covering medical expenses that are not preventive in nature without cost-sharing; and

**WHEREAS**, HSAs in the insured marketplace require qualified insurance designed and licensed under the laws of the several states but in conformance with IRS regulations; and

**WHEREAS**, States, pursuant to federal law, regulate the business of insurance and thus the quality and quantity of health insurance products available within each state’s borders; and



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**WHEREAS**, States, at their discretion, decide what benefits must be covered by a policy of insurance within their borders, subject to federal guidelines [under the ACA]; and

**WHEREAS**, by enacting first dollar insurance mandates and/or coverage requirements for benefits other than preventive care, as defined by the IRS, states risk disqualifying otherwise HSA-qualified fully insured plans; and

**WHEREAS**, in states where a non-preventive benefit is required to be covered without cost-sharing, HSA owners become ineligible to contribute to their HSAs and must then find replacement health insurance;

**NOW, THEREFORE, BE IT RESOLVED**, that NCOIL policy shall be to encourage state legislators to adopt a provision of their state statutes exempting HSA-qualified insurance plans (as defined under 23 U.S.C § 223) from any requirement, past or future, to cover any benefit without such benefit being subject to the policy deductible, coinsurance, or other cost-sharing unless such benefit is preventive care - as defined by the IRS;

**AND, BE IT FINALLY RESOLVED**, that NCOIL shall communicate adoption of this policy to the Speaker of the House and Senate President of each state legislature, the Chair of all state committees that have jurisdiction over insurance matters, all state Insurance Commissioners, the National Association of Insurance Commissioners (NAIC), and to the Secretary of Health and Human Services (HHS).

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*NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act seventy years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.*



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