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### **IRS Issues Guidance on HSA Contributions**

The Internal Revenue Service (IRS) has issued Notice 2008-52, which provides guidance on contributions to Savings Accounts (HSAs). The Notice clarifies that an individual that becomes eligible for an HSA in the mid calendar year may still contribute up to the maximum amount for the year (2008: \$2,900 for single; \$5,800 for married). However, if the individual does not remain HSA eligible until December 31 of the following year, during what the testing period, then the individual will be subject to adverse taxation.

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### **IRS Issues Guidance on IRA Rollover to HSA**

In Notice 2008-51, the IRS issued guidance on rolling over funds from a traditional or Roth IRA to an HSA. A distribution from the IRA would not be taxable and is counted toward the individual's HSA annual maximum limit. The individual must remain HSA-eligible for 12 months following the distribution date or the distribution will be subject to taxation.

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### **Court Rules Debtor May Exclude IRA Assets from Bankruptcy**

The Third Circuit U.S. Court of Appeals ruled *In Re: Krebs* (No. 06-2959) that a debtor, even though not yet retirement age of 59 1/2, could have her individual retirement account (IRA) excluded from the rest of her as her bankruptcy estate allowing her to receive payments from the IRA at the appropriate time as "reasonably to support her and her dependents."

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### **HIPAA Privacy Brochures Available in Eight Languages**

The Office for Civil Rights-HIPAA has posted on its website a fact sheet and two consumer brochures entitled *and Your Health Information* and *Your Health Information Privacy Rights*. The brochures are available in eight languages including Chinese, Korean, Polish, Russian, Spanish, Tagalog, Vietnamese, and English.

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## State Updates

### California

On May 15, 2008, the California Supreme Court ruled that the ban on same sex marriage in the state was unconstitutional. If the effective date of the ruling is not delayed, counties will begin issuing same sex marriage licenses on June 17, 2008. An initiative to amend the constitution banning same sex marriage is expected to be on the state ballot in November. Therefore, the ramifications to group health plans are unclear at this point, but it is likely that fully insured policies issued in California would need to be amended to offer coverage to same sex spouses. Additional guidance is expected from state agencies.

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### Colorado

Recently approved House Bill 08-1410 will require individual and group health insurance policies renewed, issued, or delivered after July 1, 2009 to provide coverage for certain colorectal cancer screenings. The coverage must be provided for asymptomatic adults 50 or older and individuals who are at high risk for colorectal cancer. Policies for small employers (less than 50 employees) are exempt.

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Effective January 1, 2009, any health insurance plan that provides coverage for hospital, medical, or dental expenses, must provide coverage for hearing aids for children under the age of 18. The hearing aid must be medically necessary as determined by a licensed physician or a licensed audiologist.

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### Hawaii

Effective September 1, 2008, recently approved House Bill 2224 will require small group health insurance carriers to offer coverage to self-employed individuals who live, work, or reside in the carrier's service area. The carrier may limit annual enrollment to those who are within 90 days of a qualifying event, defined as the obtaining of a general excise tax license, loss of a job, or reduction in hours, or exhausting of COBRA.

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### Idaho

Idaho's Insurance Code has been amended to require certain coverage for newborn and newly adopted children. Individual and group health plans must provide coverage for a newborn child of a health plan member from the moment of birth. A newly adopted child must be provided coverage upon the date that the child is placed with the adopting health plan member. A pre-existing condition exclusion can not be applied to a newborn or newly adopted child.

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### Kansas

The Health Care Reform Act of 2008, SB 81, will be effective July 1, 2008. One of the provisions is a requirement that all insurers that offer group health insurance to provide the option of establishing a Premium Only Plan (POP) Cafeteria Plan, a High Deductible Health Plan (HDHP) and a corresponding Health Savings Account (HSA). It also amends the

COBRA continuation coverage by extending the maximum coverage period from 6 months to 18 months and requires such premiums to be made to the former employer, instead of the current insurer, which is the current practice.

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## Maryland

On May 22, 2008, Governor O'Malley signed several bills into law that relate to health

- Effective October 1, 2008, HB 29 prohibits Long Term Care (LTC) insurance carriers from requesting or requiring information from genetic testing.

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- Effective July 1, 2008, SB 566 allows domestic partners and specified relatives of domestic partners to make certain health care and medical decisions.

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- The Flexible Leave Act, HB 40, will be effective October 1, 2008 and will allow certain employers the flexibility to decide which earned paid leave to claim with leave to care for the illness of the employee's immediate family.

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## Michigan

Signed by the Governor on April 24, 2008 and effective immediately, SB 192 provides military leave for employees performing service in the Armed Forces or National Guard of Michigan or of the United States. Additionally, it extends the notification period to require re-employment to 45-days or 90-days depending on length of service, as long as with a period of initial leave.

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## Minnesota

Signed on May 18, 2008, S. F. 3780 will become effective on July 1, 2008. Article 1 creates a statewide health improvement program to reduce the percentage of Minnesotans who are obese or overweight and to reduce the statewide use of tobacco. Community health improvement programs will occur in worksites and schools and must produce measurable results. Section 4 of Article 4 requires that effective July 1, 2009, all employers with 11 or more full-time employees must establish and maintain a Section 125 Cafeteria Plan.

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## New York

On May 14, 2008, Governor Paterson's office issued a memo directing state agencies to recognize out-of-state same-sex marriages. Such marriages are not legal in New York. In response to a February 1, 2008 state court ruling, they will honor same-sex marriages performed elsewhere. The memo states that state agencies should review their policy statements, regulations, and statutes and "ensure that terms such as 'spouse,' 'husband,' and 'wife' are construed in a manner that encompasses legal same-sex marriages." Further guidance is expected as to how private employers and group health plans would be required to respond.

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**Tennessee**

Governor Bredesen has signed SB 3364 to take effect July 1, 2008. The new law will teachers with up to 10 days of leave for visitation with a spouse, child, or parent who deployed for out of country military duty. Teachers taking the leave may not be required to forfeit accumulated leave credits, tenure status, or other fringe benefits.

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**Vermont**

Effective October 1, 2008, Senate Bill 340 will require insurers to provide mammography coverage for females aged 40 and older, which is a change from the current requirement for females aged 50 and older. The mammography co-payment may not be greater than the deductible or coinsurance requirements.

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