

State Health Reform Assistance Network

Charting the Road to Coverage

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Health Savings Accounts: Use in "Repeal & Replace" and Medicaid

Manatt Health
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Agenda

- **Today's Objectives**
- **Overview of HSAs Today**
- **Considerations Across Stakeholders on HDHPs with HSAs**
- **Use of HSAs in "Repeal & Replace" Proposals**
- **Use of HSA-like Accounts in Medicaid**

Objectives

Setting the Stage

What is an HSA?

Enrollees in high-deductible health plans can deposit money into federal tax-exempt accounts called Health Savings Accounts (HSAs). Employers may also deposit money into these accounts. These tax-free dollars can then be spent on “qualified medical expenses.”

In what markets are they used?

- Over three-quarters of HSA-holders are in the employer-sponsored insurance market.^[1]
- HSAs are available but not as widely used in the individual market.
- HSA-like arrangements have recently been launched in a handful of state Medicaid programs.

How is the use of HSAs changing?

HSAs have gained attention in recent years as features of:

- “Repeal and replace” proposals, particularly as alternatives to the ACA’s Marketplace subsidy structure
- Medicaid expansion programs that include “HSA-like” accounts intended to promote personal responsibility and sensitivity to healthcare costs.

Today's Objectives

1

Review key features of HSAs and the differences between other tax-advantaged health arrangements

2

Describe stakeholders' differing perspectives on HSAs

3

Discuss HSAs in the context of existing repeal and replace proposals

4

Review the use of "HSA-like" accounts in Medicaid

Overview of HSAs Today

HSAs: Key Legal Definitions



Federal tax law defines the requirements and permitted uses for HSAs

“Qualified Medical Expenses”

- *Does not* include premiums or most over-the-counter drugs
- Medical care must be used to alleviate or prevent a physical or mental defect or illness (and not solely for general well-being).
- Typically includes out-of-pocket medical spending, such as: deductibles; copayments; and goods and/or services not covered by insurance, including medical services rendered by clinicians, devices and prescription drugs.

“High Deductible Health Plan” (CY 2017)

- Minimum Annual Deductible
 - Self-only: \$1,300
 - Family: \$2,600
- Annual Out-of-Pocket Maximum
 - Self-only: \$6,550
 - Family: \$13,100

HSA Annual Contribution Limit (CY 2017)

- Self-only: \$3,400
- Family: \$6,750
- Can contribute only when enrolled in an HDHP
 - If an HDHP enrollee switches to a non-HDHP health plan, he/she may maintain and use funds from the HSA but may not contribute.

Comparison of HSAs, HRAs and FSAs

Unlike HRAs and FSAs, Health Savings Accounts must be paired with a high deductible health plan at the time of contribution, amounts are portable (kept by enrollee regardless of coverage or employer) and may be rolled-over year-to-year, and non-medical withdrawals are permitted (but taxed heavily).

	Health Savings Account (HSA)	Health Reimbursement Arrangement (HRA)	Flexible Spending Arrangement (FSA)
Description	Employee-established and owned account that remains with the employee upon separation.	Employer-owned and -funded account. Employers have considerable discretion over what may be reimbursed.	Employer-owned account normally funded by salary reduction arrangements.
Funding	Employee, employer, or third party	Employer only	Employee, employer, or both
Insurance requirements	Qualifying HDHP at time of contributions	Usually integrated with a major medical group plan (small employers may offer standalone under certain circumstances) ^[1]	Any major medical group plan is available
Federal tax treatment	Individual contributions deductible from adjusted-gross income; employer/third party contributions excluded from taxable income	Excluded from taxable income	Individual contributions deductible from adjusted-gross income; employer/third party contributions excluded from taxable income
Rollover	Full amount may be carried over indefinitely	Permitted but at discretion of employer	Limited funds may be carried over at the discretion of the employer
Non-medical Withdrawals	Permitted but subject to a 20% penalty before age 65 and taxable regardless of age.	Not permitted	Not permitted

[1] 21st Century Cures Act now permits small employers to offer stand alone HRAs in some circumstance (i.e., those that do not need to be integrated with another group health plan)

Considerations Across Stakeholders on HDHPs with HSA

HDHPs with HSAs: Considerations for Enrollees



Enrollees

ADVANTAGES

- Provide tax-advantaged means by which to pay for healthcare services
- Can lead to significant savings for higher-income individuals with few health needs
- Are portable, as individuals can take funds with them as they move to a different employer or health plan
- HDHPs tend to have lower premiums than traditional health plans

DISADVANTAGES

- Provide little or no tax benefit to lower income individuals
- Can be administratively burdensome to establish, use and maintain
- HDHPs require enrollees to assume greater responsibility for the total cost of care

HDHP with HSA: Policy Viewpoints

Policy Viewpoints



PROPONENTS argue that HSAs:

- Improve portability of benefits
- Encourage more cost-conscious healthcare spending by not seeking unnecessary healthcare services
- Encourage individuals to shop around on price at point of service (e.g., comparing MRI prices)
- Incent the young/healthy to enroll, when paired with an HDHP

CRITICS argue that HSAs:

- Provide regressive benefits (i.e., tax deductions are worth more to taxpayers in higher brackets)
- Limited price transparency hinders effectiveness
- Limited access to choice hinders effectiveness (i.e., individuals in rural areas or with more rare conditions may have limited choice of providers)
- Both HDHPs and HSAs potentially discourage use of cost-effective healthcare services by creating incentives to hold onto cash
- Unless extremely well subsidized, do not sufficiently mitigate the high cost of care for individuals with expensive, ongoing needs

Use of HSAs in “Repeal and Replace” Proposals

Role of HSAs in Repeal and Replace

- Expanding the use of HSAs has been a common theme of repeal and replace proposals
- Such proposals fall into three broad categories:

Enrollee Pays Premiums from Subsidized HSA

- Individuals who make HSA deposits would receive subsidy (in form of tax credit or deposit into HSA).
- Funds in HSAs could be used to pay cost sharing, other medical expenses, and, in some proposals, premiums.

Tax Credits Advanced to Insurers, Remainder to HSAs

- Advanceable premium tax credits are sent to insurers to help pay for individual insurance premiums.
- Individuals who do not spend the full tax credit on premiums would receive remaining credit in HSA.

HSA Rule Modifications

- Existing HSA rules would be modified
- Examples include allowing distributions to be used on premiums and over-the-counter drugs, raising contribution limits, eliminating the requirement that HSAs be tethered to an HDHP, and others.

Recent “R&R” Treatment of Premium Tax Credits & HSAs

		American Health Care Act	Patient Freedom Act	Obamacare Replacement Act
Sponsors		House leadership	Senators Cassidy and Collins	Senator Rand Paul
Premium Tax Credit?	Yes/No	✓	✗	✗
	Description	Age-adjusted	n/a	n/a
HSA Deposit or Subsidy?	Yes/No	✗	✓	✓
	Description	Original AHCA bills permitted individuals who do not spend full value of premium tax credit to deposit excess tax credits into individual’s or a family member’s HSA (subject to being HSA-eligible for one month during the year). Manager’s amendment would no longer permit this deposit into HSA. <i>(as of 3/22/17)</i>	<ul style="list-style-type: none"> Age, geography, and income adjusted Monthly subsidy equal to 95% of total ACA subsidies to each state deposited into HSA 	Individuals can opt for a tax credit of up to \$5,000 for contributions to an HSA. Contributions are still deductible if an individual chooses not to accept tax credit or contributes in excess of \$5,000.

Use of HSA-Like Accounts in Medicaid

Medicaid HSAs: Overview

- Several states with alternative Medicaid expansions include HSA-like account features.
- CMS Administrator Seema Verma was integral to the development of the Indiana and Kentucky waivers, which both include HSA-like accounts
- Secretary Price and Verma released a letter to governors encouraging states to consider “state-led reforms” that create “greater alignment between Medicaid’s design and benefit structure” and commercial health insurance, including HSA-like features for individuals at all income levels

Features of Medicaid HSA-like accounts:

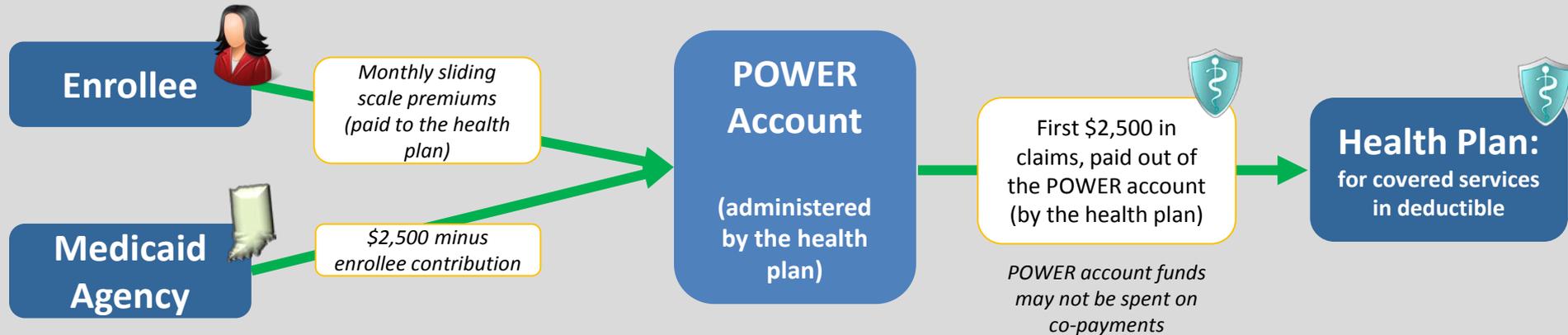
Generally funded by individual contributions and Medicaid funds
(Third party contributions usually permitted)

Generally used to pay for claims or non-covered services

Do not meet commercial definition of HSAs and are not tax-deductible

Medicaid HSAs: Indiana

All expansion enrollees have a “POWER Account”; >100% FPL enrollees are required to contribute



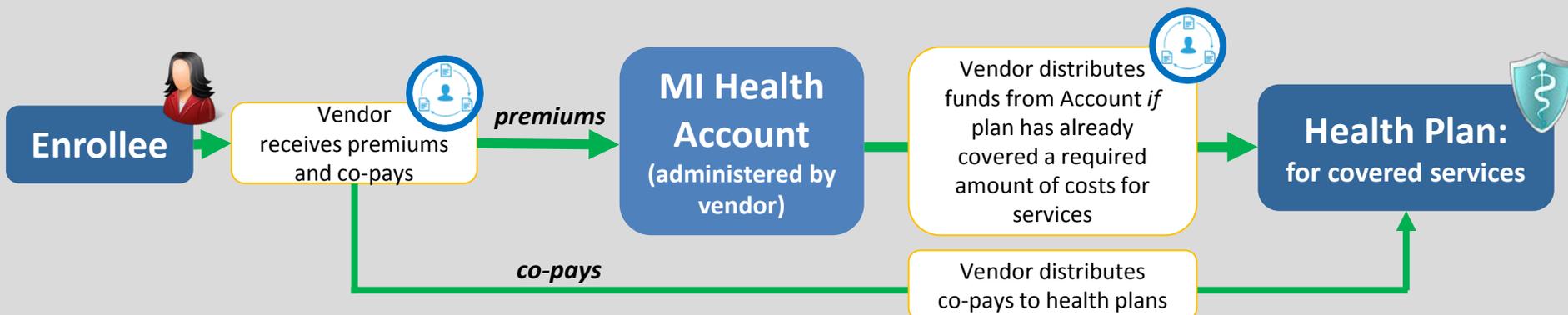
- Indiana offers two types of coverage for most expansion enrollees:
 - **HIP Plus:** Includes premiums, \$2,500 deductible, enhanced set of benefits and no copayments (except non-emergency use of ER); enrollees >100% FPL are required to enroll in this plan; enrollees ≤ 100% FPL who choose to pay premiums are enrolled in this plan
 - **HIP Basic:** Does not require premiums; includes copayments, \$2500 deductible and reduced set of benefits; enrollees ≤100% FPL not paying premiums are enrolled in this plan
- **Premium contributions for HIP Plus:** Greater of 2% of income or \$1 (enrollee contributions may be reduced by third party contributions and funds carried over from previous year)
- **Roll-over:** A portion of remaining funds at end of eligibility period may be rolled-over the following year to reduce or eliminate the next year’s required contributions. If individual meets specified healthy behavior targets, state will double roll-over amount.
- **Failure to pay premiums:**
 - >100% FPL: After 60-day grace period, disenrollment with a six month lockout
 - <100% FPL: Enrolled in HIP Basic
- Meeting **healthy behavior targets** can reduce required contributions
- All enrollees pay a **penalty** for repeated non-emergency use of the ER.

Note: Some changes to program details submitted in pending waiver application

Source: https://www.in.gov/fssa/hip/files/HIP_CMS_Approved_STC_Technical_Corrections_5.14.15.pdf

Medicaid HSAs: Michigan

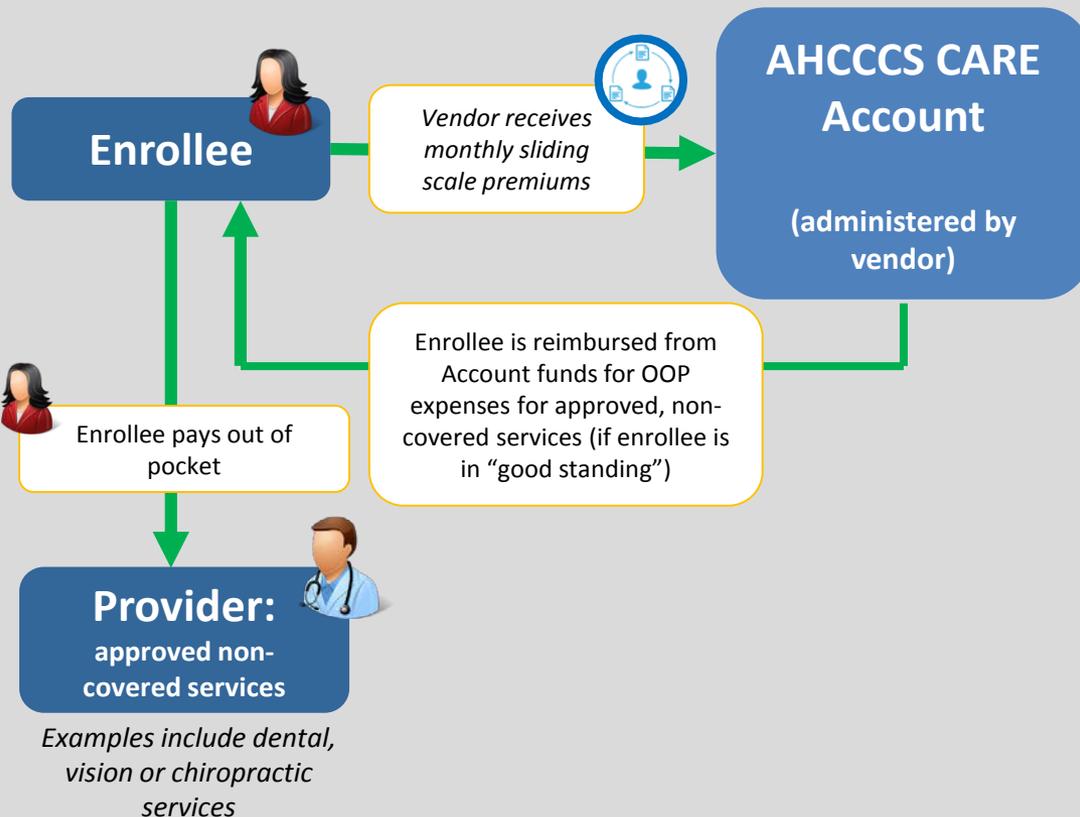
Expansion enrollees with incomes >100% FPL will contribute to MI Health Account



- **Premium contributions:** Most enrollees with income between 100%-138% FPL are required to contribute 2% of income; individuals below 100% FPL do not pay premiums. Contributions are suspended once Account balance reaches \$1,000 until balance decreases below \$1,000.
- **Distribution of funds:** Plans are responsible to cover the full cost of covered services up to a specific amount (calculated per person). Once the plan has hit this specific amount and additional costs are incurred, the plan may receive funding from the account as reimbursement.
- **Healthy behavior incentives:** Enrollees can receive credits in the account to offset premiums for completing healthy behaviors (can also offset co-pay obligations)
- **Roll over:** Annually, rollover amounts can decrease amount plan must spend before receiving reimbursement from account. Individuals may also use balance of account to purchase private insurance if ineligible for Medicaid.
- **Cost-sharing:** All enrollees pay a monthly amount for cost-sharing, calculated based on average cost-sharing obligations from three months of prior utilization. Enrollees are noticed of co-payment obligation by providers, but are charged by vendor.
- **Failure to pay premiums/cost sharing:** Payment is not a condition of eligibility, although debts can be collected by the plan or State

Medicaid HSAs: Arizona

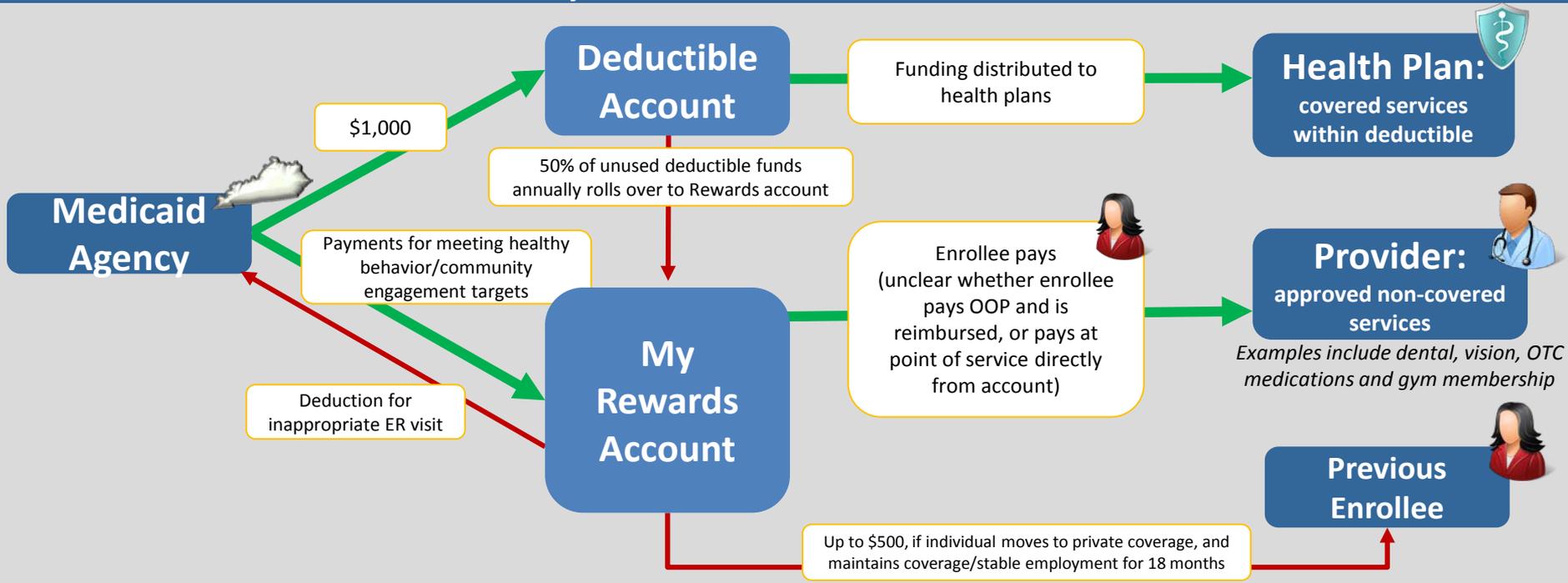
Expansion enrollees (100%-138% FPL) contribute to AHCCCS CARE Account



- **Premium contributions:** Lesser of 2% of income or \$25 for enrollees with income 100%-138% FPL.
 - **Good standing:** Enrollees must be in "good standing" to use their Account. This is achieved by making timely premium payments and meeting at least one Healthy Arizona target.
 - **Roll-over:** Enrollees must be in "good standing" to roll-over unused funds in the account from year-to-year.
-
- **Failure to make a premium payment** within the two month required timeframe results in disenrollment (but may re-enroll with no lock-out period).
 - **Cost-sharing:** Enrollees are required to pay cost-sharing between \$4 and \$10 for a number of covered services; co-pays are managed as in Michigan (vendor calculates monthly charge based on average costs of prior utilization).

Medicaid HSAs: Kentucky (Pending)

Medicaid enrollees would have two separate accounts, one for deductible payments and a second “My Rewards Account” for non-covered services



- Enrollees can accumulate Rewards Account funds for **healthy behavior activities** (e.g., disease management class) and certain **community engagement** activities/hours in excess of required hours (e.g., volunteer work, job search activities). \$20 added to account for full year avoiding unnecessary emergency room services.
- **Roll-over:** In addition to roll-overs described above, remaining funds in My Rewards Account are rolled over year-to-year.
- **Premium contributions:** Most members are required to pay monthly premiums ranging from \$1 to \$15/month; obligations increases over five years; no cost-sharing is charged to individuals paying premiums
- **Failure to Pay Premiums:**
 - > 100% of FPL – After 60-day grace period, disenrollment with six month lock-out
 - <100% of FPL – Co-payments instituted; \$25 deduction from and suspension of Rewards account

Operationalizing a Medicaid HSA-Like Account

Operationalizing an HSA-like account entails:

- Creating materials that educate the consumer about the account and regular statements about account activity
 - At least one state specifies that vendor must be able to handle beneficiary questions via in-person, telephone, written or electronic communications
- Creating and sending invoices , including with information about healthcare utilization
- Accepting funds from range of sources (including enrollee, state and possibly third parties)
- Distributing funds to range of sources (including enrollees and health plans) for range of reasons (healthcare utilization; inappropriate ER use)
- Tracking account balance
- Calculating changing premium and cost-sharing obligations based on: claims data for co-payment liability; completion of healthy behavior activities; and roll-over funds
- Tracking premium and cost-sharing payments against Medicaid's 5% cap

Thank You!

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