

## Action Item for Employers with HSA-Eligible Health Plans in Oklahoma

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January 13, 2022

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Beginning November 1, 2021, a new Oklahoma state insurance law requires health insurers providing pharmacy benefits and pharmacy benefit managers ("**PBMs**") to count any amount paid on behalf of a participant towards that participant's out-of-pocket maximum, deductible, copayment, coinsurance, or other cost-sharing arrangement. The law appears to be intended to apply only to pharmacy benefits. Counting such third-party payments, such as a prescription drug manufacturer's coupon, towards a participant's deductible could cause the participant to be ineligible for a health savings account ("**HSA**"). The Oklahoma Insurance Department has stated it is seeking clarification from the Oklahoma legislature regarding the conflict between the state statute and the federal rules governing HSA eligibility. Employers may want to contact their health insurers and PBMs (i) to determine whether any third-party payments are being applied toward the deductible under an HSA-eligible health plan and (ii) to communicate any relevant information to participants who may be affected. This new law could also affect self-funded plans because it purports to regulate PBMs; ERISA preemption of states' regulation of PBMs is the subject of current litigation.

An alert from the Oklahoma Department of Insurance is available [here](#).

The Oklahoma legislation is available [here](#).