



# Spencer Walters Answers HSA Questions with PlanSponsor

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IPB partner Spencer Walters spoke on PlanSponsor's October 13 webinar, Your HSA Questions Answered. Panelists answered questions for employers offering or considering Health Savings Accounts (HSAs) related to eligibility, demographics, overlap and compatibility with other forms of coverage, matching contributions, and more.

PlanSponsor reports: "Plan sponsors can lower their litigation risk under the Employee Retirement Income Security Act by following guidance from the Department of Labor, explains Spencer Walters, partner at Ivins Phillips and Barker.

'The Department of Labor has issued two different sets of guidance that address how HSAs can be exempt from ERISA,' he says. 'If the employer is contributing to an HSA, the arrangement has to meet several requirements, one of which is that the employer cannot make or influence the investment decisions with respect to the HSA funds.'

Employer HSAs that are subject to ERISA become potential lawsuit targets, he adds.

'There's quite a bit of question about exactly what level of involvement in choosing investment options under an HSA might make the HSA itself subject to ERISA. That would come with a couple of consequences,' Walters says. "One you'd be the potential target of ERISA fiduciary breach claims like on the 401(k) side.'

Notwithstanding the litigation risks and mitigation tactics, plan sponsors must also observe important disqualifying coverages for contribution to an account, Walters adds.



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'The Department of Labor has also said specifically that you could mimic the investment lineup you have in your 401(k) plan without running afoul of the ERISA exemption,' he adds."