fyi®
For your information

Volume 35 | Issue 28 | May 15, 2012

IRS Guidance Addresses Determination of Minimum Value for Employer-Sponsored Plans

The Internal Revenue Service (IRS) issued a Notice in which it sets out several proposed approaches to determining whether an employer-sponsored plan provides "minimum value" under the Patient Protection and Affordable Care Act (PPACA). Beginning in 2014, an employer plan's ability to meet the minimum value threshold may affect whether an individual qualifies for subsidies under an exchange plan and whether an employer will be subject to the "shared responsibility" penalty.

Background

Beginning in 2014, if an employer does not offer health coverage that has an actuarial value of at least 60% ("minimum value"), its employees who enroll in an exchange plan may be eligible to receive a federal premium subsidy or qualify for reduced cost sharing. In addition, under PPACA's "shared responsibility" provisions, the employer could be subject to a $3,000 penalty for each full-time employee who receives subsidized exchange coverage.

On February 24, 2012, the Department of Health and Human Services (HHS) issued guidance that described the approach HHS was considering to determining the actuarial value of individual and small-group plans. (See our March 9, 2012 For Your Information.) However, this guidance did not address how actuarial value would be determined for employer-sponsored self-insured plans and insured large-group plans. On April 26, 2012, the IRS released Notice 2012-31, which describes some possible approaches to determining whether an employer plan provides minimum value. Comments must be submitted by June 11, 2012.

Notice 2012-31

Notice 2012-31 states that although the rules for determining minimum value will generally be consistent with the earlier HHS guidance on actuarial value, they will be modified to reflect differences in benefits offered and populations covered under insured large-employer plans and self-funded plans. The determination of minimum value will also reflect the fact that these plans are not required to offer essential health benefits. (See our December 22, 2011 For Your Information.)

INSIGHT

Basing minimum value on benefits generally offered in the large-employer market, which entails recognizing that those plans do not have to offer essential health benefits, is an important distinction that will help large-employer plans meet the minimum value threshold.

The Notice states that employer-sponsored plans will be able to use one of several tests, and it solicits comments on three possible options for determining whether an employer-sponsored self-insured plan or insured large-group plan meets the minimum value threshold. These options are the minimum value calculator, design-based safe harbor checklists, and actuarial certification.

Minimum Value (MV) Calculator

Under this option, employer-sponsored plans would enter cost-sharing information into a publicly available MV calculator, which would be developed by HHS and the Department of the Treasury. The claims data underlying the MV calculator would be based on the benefits typically covered by self-insured employer plans, which, as noted above, are not required to cover essential health benefits under health care reform.

The Notice anticipates that the employer-sponsored plan would input a limited set of information on the benefits provided under the plan, including deductibles, coinsurance, copayments, and out-of-pocket maximums for four core categories of benefits:

- Physician and mid-level practitioner care
- Hospital and emergency room services
- Pharmacy benefits
- Laboratory and imaging services.

Information about annual employer contributions to a health savings account (HSA) or amounts available under a health reimbursement account (HRA) could also be input for consideration in determining value.

INSIGHT

The guidance asks for comments on any other benefits (such as wellness benefits) that should be reflected in the calculation of minimum value.

Design-Based Safe Harbor Checklists

This option would provide multiple safe harbor checklists that employer-sponsored plans could then compare against their coverage. If a plan’s terms are at least as generous as those on one of the safe harbor checklists, the plan would be treated as having met the minimum value threshold. This approach would allow an employer-sponsored plan to determine if it provides minimum value without using the MV calculator or using the actuarial certification option.

Actuarial Certification

Plans with nonstandard plan design features (for example, plans that impose limits on any of the four core benefit categories, such as limits on the number of physician visits or length of hospital stays) might not be able to use the MV calculator or the safe harbor checklists. Under the actuarial certification option, the employer-sponsored plan could engage a certified actuary to either:

- Make appropriate adjustments to the minimum value determined using the MV calculator, or
- Determine the plan's actuarial value without the use of the MV calculator.

The Notice asks for comments on what types of nonstandard plan design features might still permit use of the MV calculator.

Treatment of HSAs and HRAs

Under all three options, annual employer contributions to an HSA linked to a high-deductible health plan (HDHP) and amounts available through an HRA that is integrated with a group health plan would be taken into account in determining whether the underlying plan provides minimum value. The approach to doing this would be similar to that proposed by HHS in its earlier guidance on actuarial value. (See our March 9, 2012 For Your Information.) Under this approach, the calculation would assume that the employer HSA contribution or the amount first available under the HRA for a year would be used by the employee to pay for cost-sharing under the linked group health plan. Only a portion of employer contributions to an HSA or HRA for a year might be taken into account. Employer contributions would be adjusted to provide the same credit in the minimum value as "the same amount of first-dollar insurance coverage."

INSIGHT

The IRS guidance does not provide any further clarification on how the employer contributions to an HSA or HRA would be adjusted. If the full value is not reflected, a plan could fail to meet the minimum value threshold.

Conclusion

Notice 2012-31 offers several approaches that employer plans could use to determine whether they meet the minimum value threshold. The approaches should help ease employer compliance efforts in making this determination. However, employers that offer HDHPs with HSAs or HRAs will be less likely to meet the minimum value threshold if full credit is not provided for employer contributions.

Buck has prepared a Health Care Reform Timeline and Health Care Reform Comparison in Brief that provide an overview of the health care reform requirements, reflecting current guidance.

Buck Can Help

- Evaluate the implications of minimum value for employer plans
- Review strategies for HDHPs linked to HSAs and/or HRAs