

# FYI<sup>®</sup> Roundup

## For Your Information<sup>®</sup>

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## Recent Health and Welfare Developments 2015 – Summer Edition

This *FYI Roundup* discusses topics impacting health and welfare benefits in the second quarter of 2015, beginning with a review of two landmark cases decided by the Supreme Court. We also include recaps of ACA guidance on premium reimbursement arrangements, preventive care, out-of-pocket limits and ACA reporting, among other topics. Finally, we mention recent FMLA guidance, ADA proposed wellness regulations, the 2016 Medicare Part D benefit parameters and 2016 HSA/HDHP limits.

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### Supreme Court

This quarter, the Supreme Court issued rulings in two important cases affecting health and welfare benefits.

#### High Court Upholds ACA Subsidies in Federally Facilitated Marketplaces

The Supreme Court held that ACA low-income subsidies are not limited to state-operated marketplaces, but are also available for health coverage purchased in federally facilitated marketplaces. The ACA individual and employer responsibility mandates remain unchanged. (See our [June 25, 2015 FYI Alert](#).)

#### High Court Says “I Do” to Same-Sex Marriage

In late June, the Supreme Court ruled that same-sex couples have a constitutional right to marry, holding that the 14th Amendment’s equal protection and due process clauses guarantee this right. With this ruling, all states must permit same-sex marriages and recognize those marriages performed in other states. (See our [June 26, 2015 FYI Alert](#).)



## Affordable Care Act

In the second quarter of 2015, Affordable Care Act (ACA) guidance concentrated on premium reimbursement arrangements, preventive care services, 2016 cost-sharing limits and ACA reporting.

### Additional Guidance on Premium Reimbursement Arrangements

In April, the IRS provided additional guidance about premium and medical expense reimbursement arrangements, clarifying that an increase in compensation not designated for the purchase of medical care is not an employer payment plan subject to the ACA. The notice also explains how employers may reimburse Medicare premiums or pay medical expenses for employees covered by TRICARE without violating ACA market reform rules. (See our [April 7, 2015](#) *For Your Information*.)

### Summary of Benefits and Coverage

The Departments of Labor, Health and Human Services, and Treasury (departments) issued a final rule designed to streamline the format and substance of the Summary of Benefits and Coverage (SBC), tracking the 2014 proposed rules. SBCs provided in connection with fall 2015 open enrollment must comply with the new rules. The departments also anticipate issuing the new SBC template and associated documents in early 2016, which will apply for plan years beginning on or after January 1, 2017. (See our [April 14, 2015](#) and [July 7, 2015](#) editions of *For Your Information*.)

### Transitional Reinsurance Program – Refund Requests

The Centers for Medicare & Medicaid Services (CMS) issued important guidance about the timing of requests for refunds for overpayment of the transitional reinsurance fee. Plan sponsors who misreported the number of covered lives for purposes of the fee due to a mistake in applying a counting method or including exempt individuals could request a refund by April 30, 2015. (See our [April 22, 2015](#) *For Your Information*.)

### Final Regulations on Wraparound Coverage as an Excepted Benefit

Under a new pilot program, employers may offer “wraparound coverage” that qualifies as an excepted benefit in specified circumstances. The coverage would wrap around individual marketplace coverage and, as an excepted benefit, would not be subject to certain ACA requirements or jeopardize eligibility for marketplace premium tax subsidies. (See our [April 29, 2015](#) *For Your Information*.)

### New FAQs on ACA Preventive Care Services

The departments issued FAQs clarifying the range of services that must be covered by non-grandfathered group health plans under the preventive services mandate. Specifically, the FAQs address coverage for breast cancer screening, FDA-approved contraceptives, sex-specific preventive services and coverage of anesthesia associated with colonoscopies. (See our [May 28, 2015](#) *For Your Information*.)

#### Recent Update

At time of publication, the department issued final regulations on preventive care services. An *FYI* on those regulations is forthcoming.

### Self-Funded and Large Group Plans May Need “Embedded” Cost-Sharing Limits in 2016

The departments confirmed that non-grandfathered, self-funded and large group health plans must apply an embedded self-only out-of-pocket maximum (OOP) to each individual enrolled in family coverage if the plan’s family OOP maximum exceeds the ACA’s OOP limit for self-only coverage (\$6,850 for 2016). This change is especially important for high-deductible health plans that commonly impose a single overall family OOP limit on family coverage without an underlying self-only OOP maximum. (See our [June 4, 2015](#) *For Your Information*.)

### July 31 PCORI Fee Deadline Approaching

Under the ACA, plan sponsors of self-insured group health plans are responsible for paying a fee to help fund the Patient-Centered Outcomes Research Institute. Plan sponsors should prepare to report and pay this fee, which is due by July 31, 2015. (See our [June 8, 2015 For Your Information](#).)

### IRS Releases ACA Reporting Guidance and Draft 2015 Forms

The IRS released draft forms that employers and health insurance providers will use to satisfy their ACA reporting requirements for the 2015 calendar year. Additionally, the IRS issued new guidance for employers filing Forms 1094-C and 1095-C, including draft guidance on the communication procedures, transmission formats and other technical requirements for filing these forms electronically. (See our [June 17, 2015](#) and [June 26, 2015](#) editions of *For Your Information*.)

## Family and Medical Leave Act

Family and Medical Leave Act (FMLA) information this quarter addressed the definition of “spouse” and FMLA notices and forms.

### Federal Judge Blocks FMLA’s Expanded Definition of Spouse

In March, the attorneys general of Texas, Arkansas, Louisiana and Nebraska filed suit to strike down the DOL’s final rule redefining “spouse” under the federal FMLA as contrary to their state laws. A federal judge in Texas granted a preliminary injunction to stop DOL enforcement of that rule. (See our [April 7 2015 For Your Information](#).) The DOL unsuccessfully sought to dissolve the injunction at an April hearing. (See our [April 13, 2015 FYI Alert](#).)

### DOL Updates FMLA Notices and Certification Forms

The DOL released updated model FMLA notices and medical certification forms for immediate use by employers in administering FMLA leave. The new forms will be effective through May 31, 2018. (See our [June 4, 2015 For Your Information](#).)

## Long Awaited EEOC Wellness Regulations Released



The EEOC issued proposed ADA regulations for employer wellness programs. Generally, the regulations provide that incentives can be offered to employees as long as they meet certain criteria, and the maximum incentive offered under an employer’s group health plan is not more than 30% of the total cost of employee-only coverage. This limitation applies regardless of whether the program is participatory, health-contingent or a combination of the two. (See our [April 17, 2015 FYI Alert](#).)

## CMS Releases 2016 Medicare Part D Benefit Parameters

CMS released the Medicare Part D standard benefit parameters and the cost thresholds and limits for qualified retiree prescription drug plans for 2016. Plan sponsors that want to remain qualified for the employer retiree drug subsidy need to determine if their 2016 prescription drug coverage is at least actuarially equivalent to the standard Medicare Part D coverage. (See our [April 30, 2015 For Your Information](#).)

## IRS Announces 2016 HSA/HDHP Limits

The IRS released the 2016 limits for health savings accounts and high-deductible health plans. Out-of-pocket and contribution amounts have increased over the 2015 amounts, but deductible amounts have not changed. (See our [May 7, 2015 For Your Information.](#))

## Medicare Parts B and D Premiums to Increase for Some High-Income Enrollees

The President signed into law the Medicare Access and CHIP Reauthorization Act of 2015. Among other things, the law increases the amounts that certain higher-income enrollees must pay for coverage under Medicare Parts B and D. The premium increases are first effective in 2018. (See our [May 29, 2015 For Your Information.](#))

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