

Recent Health and Welfare Developments 2017 – Summer Edition

This latest *FYI Roundup* highlights developments affecting health and welfare benefits. In this summer edition, we discuss recent ACA-related guidance, wellness programs, fixed indemnity health plans, 2018 HSA limits and 2018 Medicare Part D parameters.

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Affordable Care Act

Recent Affordable Care Act (ACA) guidance includes final regulations on marketplace stabilization, 2018 shared responsibility affordability percentage, marketplace notice extension and the PCORI fee.

CMS Finalizes Enrollment Changes Aimed at Stabilizing ACA Marketplaces

The Centers for Medicare & Medicaid Services (CMS) issued final rules designed to stabilize the ACA marketplaces while the Trump administration works with Congress on ACA repeal and replace legislative efforts. Specifically, aiming to improve risk pools and thereby encouraging insurers to stay in the marketplaces in 2018, CMS shortened the marketplace open enrollment period by 45 days and tightened special enrollment rules. Employers wishing to provide marketplace-related information to qualified COBRA beneficiaries, early retirees, employees on leave, and others who are about to lose – or have already lost – employer-sponsored coverage should pay attention to these changes. (See our [May 1, 2017](#) *For Your Information*.)

2018 ACA Shared Responsibility Affordability Percentage

The IRS released the 2018 contribution percentage used to determine whether employer-sponsored coverage is affordable for purposes of ACA premium tax credit eligibility for individuals and employer assessments. Section 36B provides that employer coverage will be considered affordable if the employee's required contribution for self-only coverage is no greater than 9.69% of the employee's household income. Employers should consider this affordability percentage in developing a contribution strategy for 2018. (See our [June 2, 2017](#) *For Your Information*.)



DOL Extends Use of ACA Marketplace Notice

Under the ACA, employers subject to the Fair Labor Standards Act must provide a notice to employees that includes certain information about coverage options under the ACA's marketplaces. The DOL has extended through May 31, 2020, the use of an earlier model marketplace notice that employers can use to notify new employees of ACA marketplace (or exchange) availability. (See our [June 8, 2017 For Your Information](#).)

July 31 PCORI Fee Deadline Imminent

The ACA requires plan sponsors of self-insured group health plans and issuers of health insurance plans to pay a fee to help fund the Patient Outcomes Research Institute (PCORI). The fee, paid to the IRS, applies to plan (and policy) years ending after September 30, 2013 and before October 1, 2019. The deadline for paying the PCORI fee is drawing near. Sponsors of self-insured health plans should prepare to report and pay the fee by July 31, 2017. (See our [June 14, 2017 For Your Information](#).)

Wellness Programs: Litigation Update

The EEOC and an employer settled a claim of wrongful termination involving an employee who refused to participate in the employer's wellness program offered through the group health plan. Additionally, a lawsuit seeking to stop the implementation of the financial reward provisions (the 30% rules) in the EEOC's ADA and GINA wellness program regulations is proceeding. (See our [April 14, 2017 For Your Information](#).)

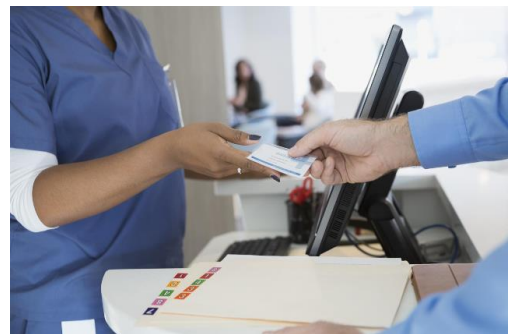
Tax Treatment of Fixed-Indemnity Health Plans and Wellness Double Dip

An IRS memorandum addressed the taxability of payments from an employer-provided, fixed-indemnity health plan benefit. It states that payments received by employees from such plans are included in gross income if the coverage is paid on a pretax (or otherwise tax-free) basis. Employers that provide or offer fixed-indemnity health benefits tax free should be aware of the tax consequences of this offering and seek guidance from trusted advisors for benefit designs that will work best for them and their employees.

(See our [April 20, 2017 FYI In-Depth](#).)

2018 HSA/HDHP Limits

The IRS released the health savings account (HSA) and high-deductible health plan (HDHP) limits for 2018. The 2018 HSA annual contribution limits and the HDHP deductible and out-of-pocket (OOP) amounts for self-only and family coverage increased from those for 2017. (See our [May 9, 2017 For Your Information](#).)



2018 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 2018. The standard benefit parameters will increase by approximately 1.2 to 1.5%, with the OOP threshold increasing by 1%. Plan sponsors that want to remain qualified for the employer retiree drug subsidy will have to determine if their 2018 prescription drug coverage is at least actuarially equivalent to the standard Medicare Part D coverage. (See our [May 15, 2017 For Your Information](#).)

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