

Recent Health and Welfare Developments 2018 – Summer Edition

This latest *FYI Roundup* highlights developments affecting health and welfare benefits. In this summer edition, we discuss recent ACA guidance, changes to HSA limits, MHPAEA enforcement, 2019 Medicare Part D parameters, San Francisco Health Security Ordinance employer reporting, and the HRC Corporate Equality Index.

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Affordable Care Act

Recent Affordable Care Act (ACA) guidance impacts 2019 plan out-of-pocket maximums, the 2019 employer shared responsibility percentage, and the PCORI fee.

HHS Finalizes 2019 Out-of-Pocket Maximums

Each year, HHS releases the Notice of Benefit and Payment Parameters that provides important guidance for various ACA requirements, including out-of-pocket maximums for non-grandfathered group health plans. HHS finalized the 2019 out-of-pocket maximums at \$7,900 for self-only coverage and \$15,800 for other than self-only coverage. (See our [May 18, 2018 For Your Information.](#))

IRS Released 2019 ACA Shared Responsibility Affordability Percentage

The IRS released the 2019 contribution percentage used to determine whether employer-sponsored coverage is affordable for purposes of both ACA premium tax credit eligibility and for employer shared responsibility assessments. Employers should consider this affordability percentage in developing their 2019 contribution strategies. (See our [May 24, 2018 For Your Information.](#))



PCORI Fee Due by July 31, 2018

The ACA requires sponsors of self-insured health plans and health insurers to pay a fee to help fund the Patient-Centered Outcomes Research Institute (PCORI). The fee, paid to the IRS, applies to plan years (and policy years) ending after September 30, 2013 and before October 1, 2019. Sponsors of self-insured health plans should prepare to report and pay the fee by July 31, 2018. (See our [June 13, 2018](#) *For Your Information*.)

Health Savings Accounts

Recent Health Savings Accounts (HSAs) guidance includes information on both 2018 and 2019 limits.

Original 2018 HSA Family Contribution Limit Remains in Effect

In March 2018, the IRS reduced the previously announced 2018 HSA maximum contribution limit for family coverage by \$50 due to a provision in the Tax Cuts and Jobs Act that changed the method for determining cost-of-living adjustments (indexing) for various purposes under federal law. In response to stakeholder concerns, IRS announced that “it is in the best interest of sound and efficient tax administration” to treat the \$6,900 annual limitation as the 2018 inflation-adjusted limit on HSA contributions for eligible individuals with family coverage under a high-deductible health plan (HDHP). Employers that had already distributed excess contributions plus earnings based on the \$6,850 limit announced in March may wish to let employees know about their option to repay that distribution to the HSA, or increase future payroll contributions. No action is necessary for employers that had not acted on the March guidance. (See our [April 30, 2018](#) *For Your Information*.)



IRS Announced 2019 HSA/HDHP Limits

The IRS released the HSA and HDHP limits for 2019. The 2019 HSA annual contribution limits and the HDHP out-of-pocket amounts for self-only and family coverage all increased over the 2018 limits. (See our [May 14, 2018](#) *For Your Information*.)

Departments Ramp Up Mental Health Parity Compliance and Enforcement Efforts

The Departments of Labor, Treasury, and Health & Human Services issued guidance that clarified how rules under the Mental Health Parity and Addiction Equity Act (MHPAEA) apply to nonquantitative benefit limitations, such as pre-authorization and medical management techniques — with specific examples of parity standards in the context of experimental or investigative treatment limitations, formulary design, and provider networks. The departments also issued a revised disclosure template to help participants and beneficiaries request information on limitations that may affect their mental health and substance use disorder benefits, as well as a self-compliance tool plans can use to review coverage terms and policies and monitor those of vendors. The DOL also is seeking authority to impose civil monetary penalties in connection with parity violations to foster more effective enforcement. With MHPAEA enforcement a stronger priority than ever, now is a good time to work with advisors to evaluate parity compliance. (See our [May 14, 2018](#) *FYI In-Depth* and [April 24, 2018](#) *FYI Alert*.)

CMS Released 2019 Medicare Part D Benefit Parameters

The Centers for Medicare & Medicaid Services (CMS) released the 2019 Medicare Part D standard benefit parameters and the cost thresholds and limits for qualified retiree prescription drug plans. The standard benefit

parameters will increase by approximately 1.5 to 2.5%, with the OOP threshold increasing by 2%. Plan sponsors that want to remain qualified for the employer retiree drug subsidy will have to determine if their 2019 prescription drug coverage is at least actuarially equivalent to the standard Medicare Part D coverage. (See our [May 16, 2018 For Your Information.](#))

San Francisco Employer Annual Reporting for 2017 Due April 30

The San Francisco Health Care Security Ordinance requires covered employers to make minimum healthcare expenditures on behalf of their San Francisco employees who work in the city. Covered employers were required to submit an Annual Reporting Form to the city summarizing compliance with this requirement for 2017 by April 30, 2018. Also, new minimum healthcare expenditure rules are effective starting with the first quarter of 2018, and employers with self-insured group health plans will need to follow these rules. (See our [April 13, 2018 For Your Information.](#))

HRC Corporate Equality Index Expands LGBTQ Benefits Criteria

The Human Rights Campaign's (HRC) Corporate Equality Index is an annual measure of how equitably large private businesses in the U.S. treat their lesbian, gay, bisexual, transgender, and queer (LGBTQ) employees, consumers, and investors. To earn the highest possible rating, a business must not only offer equal employment opportunities to LGBTQ employees, it must also provide them with comparable benefits such as medical, dental, dependent coverage, and leave benefits. For 2019 certification, HRC looked at 2018 survey responses that included expanded standards for benefit plans. Large companies seeking to demonstrate workplace equality to employees and consumers can consider seeking a high rating from the HRC. (See our [June 20, 2018 For Your Information.](#))

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