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IRS expands preventive care benefits for HSA-compatible HDHPs

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HSA-compatible HDHPs can now treat services for certain chronic conditions as preventive care and cover them before the plan's deductible is satisfied, according to an IRS notice. The guidance, effective immediately, could have a significant impact on employers who offer HDHP/HSA plans, as well as employers that have been hesitant to offer or replace more traditional group health plans with an HDHP/HSA because of the out-of-pocket expense and limited pre-deductible coverage of preventive benefits for those with chronic conditions.

Background

A recent executive order directed the IRS and Treasury Department to expand the list of preventive care services that a high-deductible health plan (HDHP) can cover before the participant or beneficiary has met the plan's deductible. Previously, a draft executive order had signaled the administration's desire that the list of preventive care include certain services and treatment for those with chronic conditions. (See our August 2, 2017 *FYI.*)

Concerned about individuals failing to seek effective and necessary disease management care due to the pre-deductible cost, stakeholders have urged the IRS and Treasury to expand the preventive services safe harbor to include items and services that help individuals manage chronic conditions. Stakeholders argued that declining pre-deductible treatment would ultimately lead to higher medical costs — for example, emergency room visits or more extensive medical care that could have been avoided had the individual been following a disease management regimen.

Specific services and items classified as preventive care

Notice 2019-45 provides that certain medical care services and other items, including prescription drugs, prescribed for specific chronic conditions will be classified as preventive care for someone with that condition. The care and items may be treated as preventive (and thus may be covered prior to satisfaction of the HDHP deductible) only when they are prescribed to treat an individual diagnosed with a listed chronic condition and only if prescribed to prevent the exacerbation or development of a

secondary condition. Specified treatment for an individual with more than one chronic condition would still be considered preventive, but preventive coverage will not include treatment for secondary conditions or complications that might occur notwithstanding the preventive care.

Only the specific care and conditions noted in the guidance are considered preventive. Designated chronic conditions include congestive heart failure, heart disease, diabetes, coronary artery disease, osteoporosis, osteopenia, hypertension, asthma, liver disease, bleeding disorders, and depression. The departments indicate that they will periodically (every five to ten years) revisit and update this list of preventive care services and items. For your convenience, a table with covered preventive care and chronic conditions is provided below.

This new guidance does not impact earlier preventive care guidance — any services and items considered preventive care for HDHP/HSA purposes previously are still so considered. It also does not affect what is considered preventive care for purposes of the ACA preventive care mandate. Whether cost-sharing may be imposed on the specified services depends on whether the treatment would be considered preventive under the ACA. For more information on ACA preventive care and HSA compatibility, see our September 17, 2013 *FYI.*

Exclusive list

The departments indicate that this notice is unique and the standards that they used to establish this list may not be used to rationalize covering additional conditions and treatments.

HDHP planning considerations

Even though this guidance is effective immediately, plan sponsors do not need to act on it right away. In fact, it may make sense to wait for the next plan year to expand preventive coverage since plan documentation and employee communications will need to be amended. The guidance does not require HDHPs to cover all the conditions and treatments listed. Among other things, plan sponsors should also consider:

- **The employee population and the current HDHP coverage parameters.** Should the plan cover all the conditions and treatments listed in the guidance?
- **Coverage at 100% or some cost-sharing.** Looking at costs, should the plan cover all newly allowed preventive care at 100% or should cost-sharing, such as copayments or coinsurance, apply?
- **Wellness and disease management programs.** How will this new coverage be coordinated and/or incorporated with current wellness or disease management programs?

In closing

It’s unclear whether this new guidance will impact plan costs. Expanded preventive care coverage could initially spell increased plan costs. However, proponents of covering treatment for chronic

conditions as preventive care argue that doing so will give individuals an incentive to actively manage their chronic conditions and thus ultimately drive down the cost of care. It is quite possible that expanding the list of preventive care to cover the cost of certain treatment associated with specific chronic diseases could increase employer and employee interest and participation in HDHP/HSA arrangements.

Preventive care for specified conditions	For individuals diagnosed with
Angiotensin converting enzyme (ACE) inhibitors	Congestive heart failure, diabetes, and/or coronary artery disease
Anti-resorptive therapy	Osteoporosis and/or osteopenia
Beta-blockers	Congestive heart failure and/or coronary artery disease
Blood pressure monitor	Hypertension
Inhaled corticosteroids	Asthma
Insulin and other glucose lowering agents	Diabetes
Retinopathy screening	Diabetes
Peak flow meter	Asthma
Glucometer	Diabetes
Hemoglobin A1c testing	Diabetes
International normalized ratio (INR) testing	Liver disease and/or bleeding disorders
Low-density lipoprotein (LDL) testing	Heart disease
Selective serotonin reuptake inhibitors (SSRIs)	Depression
Statins	Heart disease and/or diabetes

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