

# FYI<sup>®</sup> Roundup

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### Recent health and welfare developments 2019 – fall edition

This *FYI Roundup* highlights developments affecting health and welfare benefits. In this edition, we look at recent guidance on preventive care benefits for HSA-compatible HDHPs, 2020 ACA shared responsibility affordability percentage, California's individual healthcare mandate, health reimbursement arrangements, enforcement of the drug manufacturer coupon rule, and Medicare Part D creditable/non-creditable coverage notices.

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### IRS expands preventive care benefits for HSA-compatible HDHPs

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, released in July, could have a significant impact on employers who offer HDHP/HSA plans, as well as those 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. The guidance lists specific care and conditions that are considered preventive. (See our [July 18, 2019 FYI Alert](#).)

### IRS released 2020 ACA shared responsibility affordability percentage

The IRS released the 2020 contribution percentage used to determine whether employer-sponsored coverage is affordable for purposes of ACA premium tax credit eligibility and for employer shared responsibility assessments. Employer coverage will be considered affordable if the employee's required contribution for self-only coverage is no greater than 9.78% of household income — a decrease from the 9.86% limit for 2019. Employers should consider this affordability percentage in developing their 2020 contribution strategies. (See our [July 25, 2019 FYI](#).)

## California enacts individual healthcare mandate

With the elimination of the ACA individual mandate penalty in 2019, some states are taking action to help stabilize their individual health insurance marketplaces. Massachusetts, New Jersey, Vermont and Washington D.C. previously implemented individual mandates that require residents to obtain healthcare coverage or be subject to a penalty. In June, California enacted an individual mandate that is effective in 2020. It includes new employer reporting requirements. (See our [August 6, 2019 FYI](#).)

## Final regs expand use of health reimbursement arrangements

The departments issued final regulations that expand the flexibility and usefulness of employer-provided health reimbursement arrangements (HRAs). The regulations set out requirements for an integrated “Individual Coverage HRA” that can be used to pay premiums for individual health insurance and also an “Excepted Benefit HRA” that can be used to cover out-of-pocket medical expenses. While more likely to be used by small and mid-sized employers, the final regulations may also provide large employers an opportunity to subsidize the cost of individual health insurance (in or out of the ACA marketplace) for specific employee groups who previously may not have been offered health coverage. (See our [August 12, 2019 FYI](#).)

## Departments delay enforcement of drug manufacturer coupon rule

HHS final rules on the 2020 Notice of Benefit and Payment Parameters (which focus on the ACA’s annual limitation requirement on cost-sharing and indexed maximums) have called into question the coordination and use of manufacturer drug coupons. Under the guidance, a plan may provide that support offered by drug manufacturers via coupons (discounts) for brand-name drugs is not counted toward the annual limitation on cost-sharing when a generic equivalent is available. Stakeholders questioned the impact of this guidance on the large group market, self-insured group health plans and HSAs. The departments postponed enforcement and will issue further guidance on this rule. (See our [August 30, 2019 FYI Alert](#).)

## October 14, 2019 deadline for Medicare Part D creditable/non-creditable coverage notices

Plan sponsors that offer prescription drug coverage must provide notices of creditable or non-creditable coverage to Medicare-eligible individuals before each year’s Medicare Part D annual enrollment period — this year, by October 14. The notice obligation is not limited to retirees and their dependents but includes Medicare-eligible active employees and their dependents and Medicare-eligible COBRA participants and their dependents. (See our [September 9, 2019 FYI](#).)

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