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HHS proposes 2022 out-of-pocket maximums

The Department of Health & Human Services has proposed 2022 out-of-pocket maximums for non-grandfathered plans of \$9,100 for self-only coverage and \$18,200 for other than self-only coverage.

Background

Each year, the Department of Health & Human Services (HHS) releases the HHS Notice of Benefit and Payment Parameters that provides important guidance related to the Affordable Care Act (ACA) marketplaces and various ACA provisions. On December 4, HHS published the proposed [rule](#) for 2022 and a [Fact Sheet](#) that summarizes its most significant elements. While primarily focused on the ACA marketplaces and insurers offering programs, the proposed rule also includes guidance affecting large employer and self-insured group health plans.

Proposed out-of-pocket maximums for 2022

The ACA imposes annual out-of-pocket (OOP) maximums on the amount that an enrollee in a non-grandfathered health plan, including self-insured and large group health plans, must pay for essential health benefits (EHB) through cost-sharing. (See our [February 27, 2013 FYI](#).) These limits are subject to adjustment annually based on a “premium adjustment percentage” determined each year by HHS.

The proposed 2022 OOP maximums are \$9,100 for self-only coverage and \$18,200 for other than self-only coverage. This represents an approximately 6.4% increase over 2021 OOP limits, which are \$8,550 for self-only coverage and \$17,100 for other than self-only coverage.

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Employer shared responsibility assessment amounts

Applicable large employers (ALEs) are potentially subject to one of two nondeductible “shared responsibility” assessments if they have at least one full-time employee who enrolls in public marketplace coverage and receives a premium tax credit.

“Play or pay” assessment. This assessment may be imposed when an ALE fails to offer minimum essential coverage to at least 95% of its full-time employees and their dependent children during a month and at least one of its full-time employees receives a premium tax credit through a public marketplace. For 2021, the maximum annual assessment per full-time employee is \$2,700. Based on the proposed premium adjustment percentage for 2022, the maximum assessment for 2022 is estimated to be \$2,880.

“Play and pay” assessment. This assessment may be imposed when an ALE offers minimum essential coverage to at least 95% of its full-time employees but a full-time employee receives a premium tax credit because: (1) the employer-offered coverage is unaffordable or fails to provide minimum value, or (2) the employee was not offered employer-sponsored coverage. For 2021, the maximum annual assessment for each full-time employee receiving a premium tax credit is \$4,060. Based on the proposed premium adjustment percentage for 2022, the maximum assessment for 2022 is estimated to be \$4,320.

For an in-depth discussion about the shared responsibility assessments, see our [April 17, 2014 FYI In-Depth](#).

What’s the “premium adjustment percentage”?

It’s the percentage by which the average per capita premium for health insurance coverage for the preceding calendar year exceeds such average per capita premium for health insurance for 2013.

The “premium adjustment percentage” is used to determine changes to:

- Annual OOP maximum
- Employer shared responsibility assessment amounts
- Premium tax credit affordability thresholds

ACA indexed dollar amounts

The table below summarizes the ACA indexed dollar limits for 2022 and prior years.

ACA indexed dollar amounts							
	Out-of-pocket maximums ^(1,8)		PCORI fee ^(2,5)	Health FSA salary reduction cap ^(3,8)	Employer shared responsibility annual assessments ^(1,4,6,7)		
	Self-only	Other than self-only			4980H(a) – Failure to offer coverage	4980H(b) – Failure to offer affordable, minimum value coverage	Affordability threshold under 4980H(b)
2022	\$9,100 (proposed)	\$18,200 (proposed)	Not available	Not available	\$2,880 (est.)	\$4,320 (est.)	Not available
2021	\$8,550	\$17,100	Not available	\$2,750	\$2,700	\$4,060	9.83%
2020	\$8,150	\$16,300	\$2.66	\$2,750	\$2,570	\$3,860	9.78%
2019	\$7,900	\$15,800	\$2.54	\$2,700	\$2,500	\$3,750	9.86%
2018	\$7,350	\$14,700	\$2.45	\$2,650	\$2,320	\$3,480	9.56%
2017	\$7,150	\$14,300	\$2.39	\$2,600	\$2,260	\$3,390	9.69%
2016	\$6,850	\$13,700	\$2.26	\$2,550	\$2,160	\$3,240	9.66%
2015	\$6,600	\$13,200	\$2.17	\$2,550	\$2,080	\$3,120	9.56%
2014	\$6,350	\$12,700	\$2.08	\$2,500	\$2,000	\$3,000	9.50%
2013	n/a	n/a	\$2.00	\$2,500	n/a	n/a	n/a
2012	n/a	n/a	\$1.00	n/a	n/a	n/a	n/a

Notes:

- (1) Indexed to increase in average per capita premium for U.S. health insurance coverage in prior calendar year; out-of-pocket maximum does not apply to grandfathered plans or retiree-only plans
- (2) Indexed to increases in national health expenditures
- (3) Indexed for CPI-U
- (4) One-twelfth of annual amount assessed on monthly basis; no assessments for 2014
- (5) Applicable dollar amount affected by when plan year ends; no assessment for plan years ending on and after October 1, 2029
- (6) Applies on a calendar year basis
- (7) Affordability threshold adjusted consistent with Code Section 36B(b)(3)(A)(i)
- (8) Applies on a plan year basis
- n/a Not applicable

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