HHS Reaffirms Position on Out-of-Pocket Maximum Limits

May 2015

The Department of Health and Human Services (HHS) published question-and-answer guidance on May 8, 2015, applying the Affordable Care Act’s limits on out-of-pocket maximum amounts to individuals enrolled in family coverage. HHS’s guidance reiterates HHS’s position that the individual out-of-pocket maximum limit must apply to each individual, regardless of whether that individual is covered under a family tier of coverage.

On May 18, 2015, officials from the Department of Labor (DOL) and Department of Treasury (Treasury) joined HHS and confirmed that these limits apply to large group market and self-insured plans and do not prevent plans from complying with the requirements for health savings account (HSA)-qualified high-deductible health plans (HDHPs). These requirements will go into effect starting with the first plan year beginning on or after January 1, 2016.

Background

HHS released a Notice of Benefit and Payment Parameters on February 27, 2015, in which HHS issued final regulations setting the cost-sharing limits (i.e., the out-of-pocket maximum) for 2016 as $6,850 for individual coverage and $13,700 for other than individual coverage. In the preamble to the final regulations, HHS announced it was “clarifying” that the annual cost-sharing limit for individuals applies to each individual under the plan, even if the individual is covered under the family tier of coverage with a separate, higher family out-of-pocket limit. This requires a plan to have an embedded individual out-of-pocket limit within a family tier of coverage. For example, if an employee has family coverage with a family out-of-pocket maximum of $10,000, any individual’s expenses have to be paid by the plan once that individual reaches the individual out-of-pocket maximum of $6,850, regardless of whether the family out-of-pocket maximum is met.

Frequently Asked Questions (FAQs)

The FAQs released on May 8 reiterate that HHS is not changing its position and that plans must comply with the individual out-of-pocket limits for each individual, regardless of whether the individual is covered under a single or family tier of coverage. While the FAQs do not specifically address their application to or any exclusion for health plans in the large group market or for self-insured plans, officials from the DOL, Treasury, and HHS confirm that these requirements apply to plans in the large group market and to self-insured plans.

The FAQs address how an HDHP plan with an HSA can comply with both the deductible requirements for qualifying HDHP plans and the requirement for an embedded individual out-of-pocket limit. For example, since the maximum self-only out-of-pocket limit under the HHS rules is $6,850, a plan could have a family deductible of $10,000, as long as it applied the individual out-of-pocket limit of $6,850 to each individual, regardless of whether the family deductible has been satisfied. The minimum family deductible for qualifying HDHP plans is $2,600 and the individual out-of-pocket maximum is $6,850. Since the individual out-of-pocket maximum exceeds the minimum family deductible, applying the individual out-of-pocket maximum does not cause the plan to fail to satisfy the requirements for family HDHP plans.
Action Items

Employers with self-insured plans should evaluate their plan designs in light of these requirements and include an embedded out-of-pocket maximum for individuals in tiers of coverage other than self-only coverage, if the plan design does not already have this provision. Employers in the Aon Exchange should contact their account executives and relationship managers to discuss next steps. Employers with fully insured plans should contact their carriers to discuss the carrier’s approach and any system limitations that might result from this design.

Resources


Aon Hewitt’s Regulatory Guidance Under the Affordable Care Act page, which provides links to Aon Hewitt bulletins on Affordable Care Act guidance and regulations, is available at: http://www.aon.com/human-capital-consulting/thought-leadership/leg_updates/healthcare/index_regulatory_guidance_affordable_care.jsp
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