ACA COMPLIANCE BULLETIN

HIGHLIGHTS

- The ACA's out-of-pocket maximum limit would increase to $8,200 (self-only coverage) and $16,400 (family coverage).
- The required contribution percentage for the individual mandate's affordability exemption would increase for 2020.
- HHS requests comments on ways to address the practice of "silver loading."

IMPORTANT DATES

January 24, 2019
The 2020 Proposed Notice of Benefit and Payment Parameters was issued.

2020 Benefit Year
If finalized, the changes included in the proposed rule would generally apply for the 2020 benefit year.

Provided By:
Wincline

Proposed Notice of Benefit and Payment Parameters for 2020

OVERVIEW

On Jan. 24, 2019, the Department of Health and Human Services (HHS) published its **proposed Notice of Benefit and Payment Parameters for 2020**. This proposed rule describes benefit and payment parameters under the Affordable Care Act (ACA) that would be applicable for the 2020 benefit year. Proposed standards included in the rule relate to:

- Annual limitations on cost-sharing;
- The individual mandate's affordability exemption;
- Direct enrollment in the Exchanges; and
- Special enrollment periods in the Exchanges.

The proposed rule is also seeking comments on issues to address in the future, such as the practice of "silver loading," where insurers increase premiums in silver-level Exchange plans to compensate for the loss of federal cost-sharing reduction reimbursements.

Comments are also requested on the automatic re-enrollment process through the Exchanges and any additional measures that would reduce eligibility errors and potential government misspending. Comments must be submitted by Feb. 19, 2019.

Annual Limitations on Cost-sharing

The ACA requires non-grandfathered plans to comply with an overall annual limit—or an out-of-pocket maximum—on EHB. The ACA requires the out-of-pocket maximum to be updated annually based on the percent increase in average premiums per person for health insurance coverage.

- For 2016, the out-of-pocket maximum was **$6,850 for self-only coverage** and **$13,700 for family coverage**.
- For 2017, the out-of-pocket maximum was **$7,150 for self-only coverage** and **$14,300 for family coverage**.
- For 2018, the out-of-pocket maximum is **$7,350 for self-only coverage** and **$14,700 for family coverage**.
- For 2019, the out-of-pocket maximum is **$7,900 for self-only coverage** and **$15,800 for family coverage**.

Under the proposed rule, the required contribution percentage used to determine eligibility for an exemption from the individual mandate would increase to 8.39 percent in 2020.

Under the proposed rule, the out-of-pocket maximum would increase for 2020 to **$8,200 for self-only coverage** and **$16,400 for family coverage**.

Individual Mandate's Affordability Exemption

Under the ACA, individuals who lack access to affordable minimum essential coverage (MEC) are exempt from the individual mandate penalty. For purposes of this exemption, coverage is considered affordable for an employee if the required contribution for the lowest-cost, self-only coverage does not exceed **8 percent of household income**, adjusted annually, as follows:

- For 2015, the required contribution percentage was **8.05 percent of household income**.
- For 2016, the required contribution percentage was **8.13 percent of household income**.
- For 2017, the required contribution percentage was **8.16 percent of household income**.
- For 2018, the required contribution percentage **decreased** to **8.05 percent of household income**.
- For 2019, the required contribution percentage **increased** to **8.3 percent of household income**.

Under the proposed rule, the required contribution percentage would **increase in 2020** by 0.09 percent. The proposed rule provides that, for 2020, an individual would be exempt from the individual mandate penalty if he or she must pay more than **8.39 percent of his or her household income** for MEC.

Direct Enrollment in the Exchanges

In an effort to provide greater flexibility in how consumers shop for health insurance coverage, the 2020 proposed rule would enhance direct enrollment through the Exchanges. Specifically, the proposed rule would expand opportunities for individuals to directly enroll in Exchange coverage by enrolling through the websites of certain third parties—called direct enrollment entities—rather than through HealthCare.gov. The proposed rule would implement several changes intended to streamline the regulatory requirements applicable to these direct enrollment entities.

Direct enrollment is a mechanism for issuers and web brokers to enroll applicants in Exchange coverage through a non-Exchange website in a manner that would be considered to be through the Exchange. Initially implemented for the 2019 plan year, the proposed rule would enhance the direct enrollment pathway to allow approved direct enrollment partners to host the Exchange eligibility application and enrollment service for Exchange applicants on their non-Exchange websites without redirecting to HealthCare.gov.

New Special Enrollment Period through the Exchanges

Under the Exchanges, certain special enrollment periods (SEPs) are available for people who lose health insurance during the year or experience other qualifying events. The 2020 proposed rule would establish a new SEP for off-Exchange enrollees who experience a decrease in household income and are determined to be eligible for the premium tax credit through the Exchange. This would allow enrollees to enroll in a more affordable Exchange plan when their household income decreases mid-year.

Silver Loading

On Oct. 12, 2017, the White House announced that it would no longer reimburse insurers for cost-sharing reductions made available to low-income individuals through the Exchanges, effective immediately. Because Congress did not pass an appropriation for this expense, the Trump administration has taken the position that it cannot lawfully make the cost-sharing reduction payments.

In response to this, many issuers increased premiums in 2018 and 2019 only on silver level qualified health plans (QHPs) to compensate for the cost of those cost-sharing reduction payments—a practice sometimes referred to as “silver loading” or “actuarial loading.” Because premium tax credits are generally calculated based on the second-lowest-cost silver plan offered through the Exchange, “silver loading” has led to consumers receiving higher premium tax credits.

Because there has been no Congressional appropriation for the cost-sharing reduction reimbursements, the proposed rule requests comments on ways to address the practice of “silver loading” for future plan years. Any future guidance addressing this issue will not take effect prior to the 2021 plan year. Comments must be submitted by Feb. 19, 2019.

Source: Department of Health and Human Services