



Health Care Reform Update



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM Update 15

May, 2013

IRS Proposed Regulations regarding Minimum Value for Employer Shared Responsibility Penalty and Individual Premium Tax Credits

The IRS has issued proposed regulations addressing the determination of “minimum value” for purposes of health care reform’s premium tax credit and employer shared responsibility provisions. As discussed in previous releases, premium tax credits may be available in 2014 to lower-income individuals who purchase coverage through a public exchange, as long as they are not eligible for other minimum essential coverage, such as an affordable employer-sponsored plan providing minimum value.

IRS Notice 2012-31 describes the language for determining minimum value and requested public comments. Final regulations on essential health benefits (EHB) (required for health insurers in the small group and individual markets) addressed aspects of minimum value and introduced the MV Calculator. Final regulations on the premium tax credit addressed affordability, but reserved minimum value for future regulation.

The proposed regulations generally incorporate the approaches described in the Notice and the EHB regulations, with a few additional provisions. The highlights are listed below:

Demographics and Benefits Used to Determine MV Percentage

Consistent with the Notice and the EHB regulations, the proposed regulations would determine the MV Percentage using the anticipated spending for a standard population and taking into account all benefits provided by the plan that are included in any one of the EHB-benchmark plans.

Treatment of Employer’s HSA or HRA Contributions

Consistent with the Notice and the EHB regulations, the proposed regulations would consider all amounts contributed by an employer for the current plan year to an HSA in determining the MV Percentage. Amounts newly made available for the current plan year under an integrated HRA that may be used only for cost-sharing (and not for paying premiums) would be taken into account in determining the MV Percentage. Amounts that may be used for paying premiums would be taken into account in determining a plan’s affordability, but not for determining its MV Percentage. The rule is intended to prevent double counting of HRA contributions in assessing affordability and minimum value. It is important to point out the preamble to the regulations state that the regulations on whether an HRA is “integrated” are anticipated.

Treatment of Wellness Incentives

Incentives under a nondiscriminatory wellness program that reduce either cost-sharing or participant contributions (premiums) generally would not be taken into account as amounts paid by the plan for purposes of determining the MV Percentage or the plan’s affordability, unless the program is designed to prevent or reduce tobacco use. A transition rule for existing wellness incentives for plan years before January 1, 2015 is described in the preamble.



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Methods for Determining MV Percentage

The proposed regulations would require plans to use the MV Calculator to measure standard plan features, but permit the result to be adjusted based on an actuarial analysis of plan features outside the calculator's parameters. Plans in the small group market could comply by providing one of the metal levels of coverage (bronze, silver, gold, or platinum). Alternatively, a plan could avoid the need for the MV Calculator by satisfying a safe harbor plan design. The safe harbors are not stated in the proposed regulations, but the preamble lists three safe harbor plan designs and states that additional guidance will follow. Safe harbor plans would need to cover all of the benefits included in the MV Calculator and comply with one of three cost-sharing configurations.

Please follow the link below to view a copy of the Federal Register containing the preamble to the regulations.

<http://www.gpo.gov/fdsys/pkg/FR-2013-05-03/pdf/2013-10463.pdf>

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