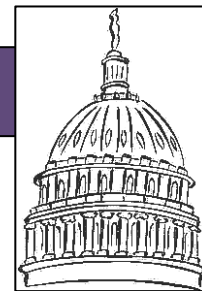




## Health Care Reform Update



### **IMPORTANT NOTICE REGARDING HEALTHCARE REFORM** **Update #104**

**February 2020**

#### **HHS Releases Proposed 2021 Benefit and Payment Parameters Notice** **CMS Again Extends “Grandmothered Plans” Nonenforcement Policy**

##### **HHS Releases Proposed 2021 Benefit and Payment Parameters Notice**

HHS has released proposed regulations with the benefit and payment parameters for 2021, along with other insurance market and Exchange-related proposed rules and a proposed notice requirement for non-federal governmental excepted benefit health reimbursement arrangements (EBHRAs). Although largely aimed at insurers and Exchange regulators, some provisions may be of interest to employers and their advisors. Here are highlights:

##### **Annual Cost-Sharing Limits**

HHS has proposed to increase the maximum annual limitation on cost-sharing for 2021 to \$8,550 for self-only coverage and \$17,100 for other than self-only coverage (compared to \$8,150 and \$16,300 for 2020).

##### **Drug Manufacturer Coupons**

HHS would permit, but not require, plans and insurers to count direct support offered by drug manufacturers to enrollees for specific prescription drugs toward the annual limit on cost-sharing, regardless of whether a generic equivalent is available. HHS would interpret the definition of cost-sharing to exclude expenditures covered by drug manufacturer coupons.

Under the 2020 benefit and payment parameters, health plans are not required to count drug manufacturers' direct support toward the annual limit on cost-sharing when a medically appropriate generic equivalent is available. This provision implied that plans and insurers must count this support toward the annual cost-sharing limits, a requirement that created a conflict with rules for high deductible health plans (HDHPs) that are intended to allow eligible individuals to establish HSAs. The agencies did acknowledge that HDHP insurers or sponsors may be unable to comply with both rules simultaneously and announced that they intended to address this conflict in the 2021 benefit and payment parameters.

##### **EBHRAs**

HHS proposes to require EBHRAs offered by non-federal governmental plan sponsors to provide participants with a notice that is generally consistent with the content of the ERISA summary plan description (SPD). The notice would state conditions of eligibility to receive benefits under the HRA, describe annual or lifetime limits on benefits under the HRA, and provide a summary of the benefits consistent with ERISA requirements.

Additional Information is available at:

[DOL Website](#)

[HHS Website](#)



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#### **HHS Releases Proposed 2021 Benefit and Payment Parameters Notice CMS Again Extends “Grandmothered Plans” Nonenforcement Policy**

##### **CMS Again Extends “Grandmothered Plans” Nonenforcement Policy**

CMS has announced another extension of the limited nonenforcement policy allowing states to permit insurers in the individual and small group markets to renew health insurance policies they would otherwise have to cancel due to noncompliance with certain Affordable Care Act (ACA) insurance market reforms. In all significant respects, this extension of the transitional policy first announced in 2013 continues the terms and conditions of the previous extension.

Under this latest guidance, states may permit insurers that have continually renewed eligible non-grandfathered individual and small group policies since January 1, 2014, to again renew that coverage for a policy year beginning on or before October 1, 2021, provided that the policies end or come into compliance with the applicable market reforms by January 1, 2022. Health insurers relying on this nonenforcement policy must send an informational notice to affected individuals and employers. The guidance includes a model notice for this purpose, unchanged from last year.

Additional Information is available at: <https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2021.pdf>

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Bernie Lowe & Associates, Inc. is not providing any legal advice with regard to compliance with the requirements of the Affordable Care Act ("ACA"). Bernie Lowe & Associates, Inc. makes no representation as to the impact of plan changes on a plan's grandfathered status or interpretation or implementation of any other provisions of ACA. Bernie Lowe & Associates, Inc. will not determine whether coverage is discriminatory or otherwise in violation of Internal Revenue Code Section 105(h).