Brown & Brown

EMPLOYEE BENEFITS

2024 Compliance Issues to Consider

Topics

2024 ACA Maximum Out-of-Pocket Expenses

(non-grandfathered plans)

Applicable to plan years beginning on or after 1/1/2024:

- $9,450 for self-only coverage ($350 increase from $9,100 in 2023)
- $18,900 for family coverage ($700 increase from $18,200 in 2023)

2023 HSA & HDHP Design Maximums

HDHP	2023	2024	Change in 2024
Minimum Annual Deductible	$1,500 for self-only coverage	$1,600 for self-only coverage	$100 increase
	$3,000 for family coverage*	$3,200 for family coverage	$200 increase
Out-of-Pocket Maximums	$7,500 for self-only coverage	$8,050 for self-only coverage	$550 increase
	$15,000 for family coverage	$16,100 for family coverage	$1,100 increase
Maximum Annual HSA Contribution	$3,850 for self-only coverage	$4,150 for self-only coverage	$300 increase
	$7,750 for family coverage	$8,300 for family coverage	$550 increase

- Catch-up contribution (Age 55 and older by the end of the tax year): $1,000
- Maximums apply to plan years beginning in the applicable year.
- **Note:** DOL, HHS, and IRS guidance requires group health plans to embed an individual out-of-pocket maximum in the plan's family coverage when the family out-of-pocket maximum exceeds the ACA's out-of- pocket maximum for self-only coverage.

*When the HDHP includes an embedded deductible for those with family coverage, no plan benefit (other than for preventive care or other permitted coverage) may be available until one or more family members have satisfied the full minimum annual family deductible.

Health FSA Limits

- The inflation-adjusted annual limit on employee salary reduction contributions for plan years beginning in 2024 has not yet been determined. The annual limit for plan years beginning in 2023 is $3,050.
- The limit on the amount that may be carried over from the plan year beginning in 2024 to the 2025 plan year has not yet been determined. The carryover limit from the plan year beginning in 2023 to the plan year beginning in 2024 is $610.

DCAP Limits

Limit on the amount of DCAP benefits (including dependent care FSA benefits) that are excluded from income is $5,000 ($2,500 for married filing separately) for the calendar year.

Transportation Limits

The 2023 monthly limitation on non-taxable qualified transportation fringe benefits is $300, as is the 2023 monthly limitation for qualified parking fringe benefits. 2024 monthly limits for transportation/qualified parking fringe benefits are yet to be released.

Employer Shared Responsibility Tax

(employer mandate) for 2024

- **4980H(a)** Tax for not offering minimum essential coverage to at least 95% of full-time eligible employees. For 2024, the ESRP will be $2,970 (annually) per full-time employee (less 30 full-time employees).
- **4980H(b)** Tax for offering coverage that is not minimum value or not affordable to a full-time employee or failure to offer coverage to a full-time employee when coverage is offered to at least 95% of full-time employees. For 2024, the ESRP will be $4,460 (annually) for each full-time employee not offered minimum value, affordable coverage that receives an Exchange subsidy.

Affordability Safe Harbors

The safe harbor percentage for 2024 is 8.39%. The 2023 affordability threshold is 9.12%.

PCORI Fee

FEE DUE JULY 31, 2024

Plan year end date	Fee per average covered life
Jan. 2023 – Sept. 2023	$3.00
Oct. 2023 – Dec. 2023	TBD

Selecting a Benchmark Plan

- The final market reform rules require self-insured and large insured plans to select one of the three Federal Employees Health Benefit Program (FEHBP) options or a state benchmark plan to define essential health benefits (EHB) for purposes of ensuring the plan imposes no annual or lifetime dollar limits on EHBs.
- This requirement applies to benefits provided in- or out-of-network.

Forms 1094-C/1095-C or Forms 1094-B/1095-B

Applicable Large Employers (ALEs) are responsible for disclosing and reporting information related to offers of coverage to full-time employees. ALEs typically report/disclose this information in Forms 1094-C and 1095-C. Plan sponsors of a self-funded health plan must also disclose and report covered individuals participating in the health plan on Forms 1094-B and 1095-B or, if they are an ALE, on Forms 1094-C and 1095-C. The 1095-B/C must be disclosed/furnished to employees/covered individuals by March 2nd of the year following the applicable calendar year of coverage, and the applicable 1094-B/C Forms and 1095-B/C Forms would need to be filed with the IRS by February 28th of the year following the applicable calendar year of coverage if they were filed by paper form and by March 31st of the year following the applicable calendar year of coverage if such Forms were filed electronically with the IRS. Previously, ALEs that issued less than 250 returns had the option to file paper copies of these Forms and were not required to file these Forms electronically with the IRS. However, beginning in 2024 (reporting information for the 2023 calendar year), ALEs/plan sponsors that issue ten (10) or more returns in aggregate (meaning all forms/returns filed with the IRS, including W-2s, 1099s, etc.) are now required to file the Forms 1094-B/C and 1095-B/C electronically.

Wellness Incentive and Reward Limits

HIPAA

- **Participation-Only Program** (e.g., fitness club discounts): Unlimited.
- **Outcomes-Based:** Tobacco cessation 50% of employer + employee premium contribution. All other programs (e.g., biometrics) 30% of employer + employee premium contribution. Note: If combined, the total can be no more than 50% of employer + employee premium contribution, with any percentage over 30% being attributable to tobacco cessation.

ADA

- EEOC rules were withdrawn per President Biden's regulatory freeze order (January 2021). Replacement rules have not yet been issued.
- Employers should be careful about structuring incentives for wellness programs that ask for health information or involve medical exams.

GINA

Applies to incentives linked to the spouse or children of an employee participating in a medical exam or providing information regarding current or past health status: The maximum inducement to the employee ***was*** 30% of the employee only rate, and if the spouse can participate, an additional 30% of the employee-only rate. However, these rules have also been withdrawn..

Transparency

Plans and issuers must make available or disclose certain cost-sharing and pricing information to participants, the public, and the federal government, including making cost-sharing information available through a self-service tool available on an internet website (e.g., the insurance issuer's, TPA's or plan sponsor's website). Some rules were applicable starting with the first plan year beginning on or after January 1, 2022, while others were applicable on July 1, 2022, or as of the first plan year beginning in 2023. Some rules have been delayed indefinitely.

Requirements Currently in Effect

- Publicly Available Machine-Readable File (MRF) – MRFs must be posted (on the health plan's public website (if any) or the public website of the carrier or TPA) by July 1, 2022, and must be updated monthly.
- Health Plan ID Card Requirements – Compliance is required as of first day of the plan year beginning on or after January 1, 2022.
- Health Provider Directories – Compliance required as of the first day of the plan year beginning on or after January 1, 2022.
- Continuity of Care – Compliance required as of the first day of plan year beginning on or after January 1,
- 2022.
- Reporting on Prescription Drug Costs – Annual report due by June 1, 2024, with respect to 2023 calendar year data. Subsequent annual report due June 1st for the preceding calendar year.
- Prohibition on Gag Clauses – Initial attestation of compliance for the period from December 27, 2020, through the attestation date is due by December 31, 2023. Subsequent annual attestation will be required by December 31st of each year.
- Price Comparison Information (500 identified items or services) – Compliance required as of the first day of the plan year beginning on or after January 1, 2023.
- No Surprises Act (Applicable to plan years beginning on or after January 1, 2022):
  - » Prohibits surprise billing for emergency services.
  - » Prohibits high out-of-network cost-sharing for emergency and non-emergency services.
  - » Prohibits out-of-network charges for ancillary care (like an anesthesiologist or assistant surgeon) at an in-network facility in all circumstances.
  - » Prohibits other out-of-network charges without advance notice.

Requirements Effective 2024

Price Comparison Information – Disclosure requirements are expanded to encompass all items or services for plan years beginning on or after January 1, 2024. Further guidance to health plans and issuers is expected.

Additional Requirements

- Advanced Explanation of Benefits: Enforcement deferred until agencies implement future rulemaking.

Mental Health Parity and Addiction Equity Act (MHPAEA)

- Health plans and issuers providing coverage for both medical/surgical and mental health or substance use disorder (MH/SUD) must conduct an analysis of any nonquantitative treatment limitations (NQTLs) that apply to MH/SUD benefits.
- Analysis results must be documented, and health plans must provide the results upon request by applicable federal or state agencies.
- Any restrictions that are not compliant with the parity rules must be corrected within a 45-day corrective action period, or a health plan must notify all enrollees it is not compliant with the NQTL requirements.
- Analysis, reporting and enforcement requirements began on February 10, 2021.
- Health plans and issuers continue to be responsible for ensuring that the financial requirements/ quantitative treatment limitations (QTLs) that are applied to medical/surgical benefits are in parity with the financial requirements/QTLs applied to MH/ SUD benefits, subject to the rules contained in the MHPAEA.

HSA Eligibility Relief for 2024

Due to the temporary relief provided by the IRS, qualified HDHPs may continue to cover COVID-19 testing and/ or treatment prior to a covered individual satisfying the HDHP minimum deductible for all plan years **ending on or before December 31, 2024**, without jeopardizing an HDHP participant's HSA-eligible status (so long as they are otherwise HSA eligible).

An individual also would not jeopardize their HSA-eligible status if they participate in a qualified HDHP or other group health plan that provides coverage for telehealth or other remote care services prior to a covered individual satisfying the minimum HDHP deductible during a plan year **beginning before January 1, 2025**.

How Brown & Brown Can Help

Connect with your Brown & Brown service team to learn more about how we can help find solutions to fit your unique needs.

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