Proposed 2021 Benefit Payment and Parameters Rule

The Centers for Medicare & Medicaid Services (CMS) released a proposed rule for benefit payment and parameters for 2021. CMS also released its draft 2021 actuarial value calculator and draft 2021 actuarial value calculator methodology.

According to CMS, the proposed rule is intended to reduce fiscal and regulatory burdens associated with the Patient Protection and Affordable Care Act (ACA) across different program areas and to provide stakeholders with greater flexibility.

Although the proposed rule would primarily affect the individual market and the Exchanges, the proposed rule addresses the following topics that may impact employer-sponsored group health plans:

- Notice requirements for excepted benefit health reimbursement arrangements (EBHRAs)
- Special enrollment period for non-calendar year qualified small employer health reimbursement arrangements (QSEHRAs)
- Maximum annual limitation on cost sharing for plan year 2021
- Cost-sharing requirements and drug manufacturers' coupons

CMS usually finalizes its benefit payment and parameters rule in the first quarter of the year following the proposed rule's release. March 2, 2020, is the due date for public comments on the proposed rule.

The 2021 open enrollment period will run from November 1, 2020, to December 15, 2020.

Notice requirements for Excepted Benefit HRAs

CMS proposes to establish notice requirements for excepted benefit health reimbursement arrangements (EBHRAs) offered by non-federal governmental plan sponsors / employers. Under the proposed rule employers would be required to provide a notice to EBHRA eligible participants that contains specified information about the benefits that are available under the EBHRA. The notice would be required to include a description of the conditions for eligibility to receive benefits under the EBHRA, a description of annual or lifetime limits on benefits, and description or summary of the benefits available under the EBHRA. Under the proposed rule, the notice must be provided in a manner reasonably calculated to

ensure actual receipt by participants who are eligible for the EBHRA (for example, providing notice in the same manner as the employer provides other notices or plan documents). The notice would be required to be provided no later than 90 days after the employee becomes enrolled in the EBHRA, and annually thereafter. On an annual basis, the notice would be required to be provided no later than 90 days after the first day of the EBHRA plan year.

This rule would become effective 30 days after the effective date of the final rule.

Special enrollment period for non-calendar year QSEHRA participants

CMS proposes to establish a new special enrollment period for individuals enrolled in non-calendar year qualified small employer health reimbursement arrangements (QSEHRAs) to purchase individual coverage on or off the Exchanges (also referred to as Marketplaces). Under the proposed rule, the special enrollment period would occur annually for employees and their dependents in coordination with the beginning of the QSEHRA plan year and would allow the QSEHRA participants to change to other individual health insurance coverage outside of open enrollment for individual coverage on or off the Exchanges.

Maximum annual limitation on cost sharing for plan year 2021

CMS proposes that the 2021 maximum annual limitation on cost sharing would be $8,550 for self-only coverage and $17,100 for other than self-only coverage.

Cost sharing requirements and drug manufacturers' coupons

CMS proposes that, to the extent consistent with applicable state law, amounts paid toward reducing the cost sharing incurred by an enrollee using any form of direct support offered by drug manufacturers to enrollees for specific prescription drugs are permitted, but not required, to be counted toward the annual limitation on cost sharing. Under the proposed rule, issuers of non-grandfathered individual and group market coverage, and all non-grandfathered group health plans have discretion to determine whether to include or exclude coupon amounts from the annual limitation on cost sharing, regardless of whether a generic equivalent is available.

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