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Session 117PD, The AHP, Short-Term Duration and HRA Rules: What's the Latest?

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THE AHP, SHORT-TERM DURATION AND HRA RULES: WHAT'S THE LATEST?

Panel

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Agenda

- 1 Association Health Plans**
- 2 Short-term Limited Duration Insurance Plans**
- 3 Health Reimbursement Arrangements**



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Association Health Plans

- Current Law
- Overview of Final Rule
- Academy Considerations



Current Law

- The Employee Retirement Income Security Act (ERISA) applies to employee benefit plans and employee benefit plans must have a plan sponsor.
- Association Health Plans (AHPs) are subject to a “look through” provision:
 - If enrolling Small Groups (SG), must follow Affordable Care Act (ACA) SG rules.
 - If enrolling Individuals, must follow ACA Individual rules.
- Large Groups have more flexibility in rating rules and benefit coverage requirements.



Final Rule

- ❑ Issued June 19, 2018.
- ❑ Creates a new class of AHPs: Rated based on the aggregate size of all employer subscribers.
- ❑ Allows small employers, sole proprietors and other working owners to join together and offer or enroll in an AHP that is treated as a single group health plan under ERISA.



Final Rule cont'd

- ❑ AHPs may be fully insured or self funded.
- ❑ Must be offered by a qualifying group of employers or associations.
- ❑ Must not be offered by a health insurer.
- ❑ Must be a commonality of interest: Industry / profession or geographic region.



Actuarial Considerations

- ❑ Which Large Group Rules would apply?
- ❑ Interaction with employer mandate.
- ❑ Impact of reducing benefit coverage rules.
- ❑ Impact of more flexible rating rules.
- ❑ Change in definition of employer to include self employed without common law employees.



Actuarial Considerations

- ❑ ACA individual market membership and morbidity.
- ❑ Working Owner eligibility enforcement.
- ❑ Impact of not being included in risk adjustment.
- ❑ Provider payment rates and administrative costs
- ❑ AHPs that cross state lines.
- ❑ Timing of AHP expansion.
- ❑ AHP solvency and consumer protections.



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Short-Term Limited Duration Plans

- Background
- Comparison of Short-Term Limited Duration Plans (STLD) Plans to ACA Plans
- Renewability
- Academy Considerations
- Estimates of Enrollment



STLD Plans - Background

- ❑ Traditionally used by healthy people with a short-term gap in coverage.
- ❑ STLD plans are not considered individual market plans and are not subject to medical loss ratio (MLR) regulations.
- ❑ In the fall of 2016, the Centers for Medicare and Medicaid Services (CMS) imposed a maximum duration on STLD plans of 3 months, with no renewal.
- ❑ In February of this year, CMS proposed a rule that would allow STLD plans of up to 364 days (“less than one year”).
- ❑ Academy issued April 6, 2018 comment letter.



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STLD vs ACA – Issue and Rating Rules

	ACA Plans	Short-Term Plans
Issue Rules		
Guaranteed issue	Yes	No
Underwriting prohibited	Yes	No—insurers can underwrite at time of enrollment and/or at time of claim
Pre-existing condition exclusions prohibited	Yes	No
Renewability	Guaranteed renewable: Renewable at option of insured	Proposed rules would allow renewal at option of insurer
Open enrollment periods	Limited annual open enrollment period outside of which enrollment is available only for those meeting special enrollment period eligibility	No open enrollment period; individuals can apply throughout the year
Rating Rules		
Premium variations by health conditions prohibited	Yes	No
Premium variations by age limited	Age variations limited to 3:1 ratio	No
Premium variations by gender prohibited	Yes	No
Geographic rating areas are defined	Yes	No



STLD vs ACA – Benefit Coverage Requirements

	ACA Plans	Short-Term Plans
EHB requirements	Yes	No
Maximum out-of-pocket limits required	Yes	No
Lifetime and/or annual dollar limits prohibited	Yes	No
Specified actuarial value requirements	Yes	No
Network adequacy requirements	Yes	No



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STLD Plans – Renewability

- CMS proposed rule did not set forth provisions, but asked for comments on renewability.
- Renewability possibilities and implications
 - Non Guaranteed Issue
 - Re-underwriting
 - Pre-existing condition restart
 - Guaranteed Issue



STLD Plans – Considerations

- ❑ STLD plans are likely to be attractive to unsubsidized young and healthy people because of lower premiums and narrower benefits compared to ACA plans.
- ❑ Elimination of individual mandate penalty may encourage enrollment in STLD plans.
- ❑ STLD plans are not part of risk adjustment.
- ❑ This combination will create risk selection resulting in a sicker ACA risk pool and higher ACA premiums, especially for older and sicker people.
- ❑ Also will result in higher subsidies and, thus, higher federal spending.



Estimates of Enrollment Impact

- National Association of Insurance Commissioners (NAIC) - as of Dec. 31, 2016, just over 160,000 individuals had short-term medical coverage in the individual market, up from 148,000 in 2015. But these figures may be understated.
- Tri-agency projection— decrease in on-exchange ACA enrollment of 100,000 to 200,000 in 2019.
- Wakely Consulting Group – decrease in on and off-exchange ACA enrollment of 396,000 to 826,000 in 2019.
- May, 2018 CMS Office of the Actuary (OACT) estimates – enrollment of 1.4 million in 2019 (1.3 million from the ACA market).
- May, 2018 Congressional Budget Office (CBO) estimates – enrollment of approx. 2 million in STLD in 2023.



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Health Reimbursement Arrangements

- Background
- 21st Century Cures Act
- Presidential Executive Order
- Considerations



HDHP Background

- High deductible health plan (HDHP) has:
 - A higher annual deductible than traditional health plans, and
 - A maximum limit on the sum of the annual deductible and out-of-pocket medical expenses that you must pay for covered expenses. Out-of-pocket expenses include copayments and other amounts, but don't include premiums.
- An HDHP may provide preventive care benefits without a deductible or with a deductible below the minimum annual deductible. Preventive care includes, but isn't limited to:
 - Periodic health evaluations, including tests and diagnostic procedures ordered in connection with routine examinations, such as annual physicals.
 - Routine prenatal and well-child care.
 - Child and adult immunizations.
 - Tobacco cessation programs.



What is an HRA?

- A Health Reimbursement Arrangement (HRA) is a type of health savings account owned by an employer, reimburses employees for qualified medical expenses that aren't covered by insurance.
- Benefits
 - ▣ Excluded from your gross income.
 - ▣ Unused amounts in the HRA can be carried forward for reimbursements in later years.
- Qualifying
 - ▣ Employers have complete flexibility to offer various combinations of benefits in designing their plan.
 - ▣ Self-employed persons aren't eligible.
- Contributions
 - ▣ Solely through employer contributions.



Contributions and Distributions

- Amount of Contribution
 - ▣ No limit on the amount of money employers can contribute.
 - ▣ The maximum reimbursement amount credited under the HRA in the future may be increased or decreased by amounts not previously used.
- Distributions From an HRA
 - ▣ Generally, distributions from an HRA must be paid to reimburse you for qualified medical expenses you have incurred. The expense must have been incurred on or after the date you are enrolled in the HRA.
 - ▣ Debit cards, credit cards, and stored value cards given to employees by your employer can be used to reimburse participants in an HRA.
 - ▣ If the plan permits amounts to be paid as medical benefits to a designated beneficiary (other than the employee's spouse or dependents), any distribution from the HRA is included in income.



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Qualified Medical Expenses

- Qualified medical expenses.
 - Qualified medical expenses are those specified in the plan that generally would qualify for the medical and dental expenses deduction.
 - Also, non-prescription medicines (other than insulin) aren't considered qualified medical expenses for HRA purposes. A medicine or drug will be a qualified medical expense for HRA purposes only if the medicine or drug:
 - Requires a prescription,
 - Is available without a prescription (an over-the-counter medicine or drug) and you get a prescription for it, or
 - Is insulin.
 - Qualified medical expenses from your HRA include the following:
 - Amounts paid for health insurance premiums.
 - Amounts paid for long-term care coverage.
 - Amounts that aren't covered under another health plan.



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21st Century Cures Act

- Qualified Small Employer Health Reimbursement Arrangement (QSEHRA)
 - The QSEHRA is unique to employers with less than 50 employees. Employers who do not offer a group health plan can help employees manage healthcare costs through pre-tax contributions with the QSEHRA.
 - Sec. 18001. Exception from group health plan requirements for qualified small employer health reimbursement arrangements.



Presidential Executive Order: Oct. 12, 2017

- *Promoting Healthcare Choice and Competition Across the United States*
- No proposed rule/action released for HRAs
- Sec. 4. Expanded Availability and Permitted Use of Health Reimbursement Arrangements
 - ▣ to increase the usability of HRAs, to expand employers' ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with non-group coverage.
 - ▣ Report to be provided to the President



Considerations

- Could increase the adverse selection risk in the individual market if less healthy workers are disproportionately encouraged directly or indirectly to use their HRAs for coverage on the individual market.
- Many large employers are interested in transitioning to a defined contribution approach of providing employer sponsored health benefits



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Considerations

- If large employers offer HRA contributions, would these contributions meet the large group affordability and other requirements?
- If individuals use these tax-advantaged HRA funds to purchase individual insurance in the ACA market on exchanges, would the HRA be counted as income in the determination of any potential subsidies?



Related Academy Publications

- Comments on Short-term, Limited Duration Insurance proposed regulations (April 2018)
http://www.actuary.org/files/publications/STLD_Comment%20Letter_040618.pdf
- Comments on Association Health Plan proposed regulations (March 2018)
http://www.actuary.org/files/publications/AHP_Comment%20Letter_030518.pdf
- Letter to agencies regarding executive order aiming to expand availability of AHPs, short-term plans, and HRAs (November 2017)
http://www.actuary.org/files/publications/Executive_Order_Academy_Comments_110717.pdf



Questions?



For More Information

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