BENEFITS INSIDER

Volume 354, November 15, 2024
(covering news from November 1-14, 2024)

The ***Benefits Insider*** is a bimonthly member exclusive publication prepared for WEB members by the American Benefits Council ("the Council"), a premiere benefits advocacy organization based in Washington, DC. This newsletter provides the latest news and analysis on the most important benefits-related policy matters in Congress, executive branch agencies and the federal judiciary.

Please note: any views or opinions expressed in these stories represent the advocacy positions of the American Benefits Council and its membership. They do not necessarily reflect the views of WEB or its membership. To inquire about membership with the American Benefits Council, contact Deanna Johnson at (202) 289-6700 or djohnson@abcstaff.org.

TABLE OF CONTENTS:

RECENT REGULATORY ACTIVITY

Council Calls for Good Faith Compliance Standard for MHPAEA Final Rule Compliance

You Need to Know:

- The Council is asking federal agencies to issue a good-faith compliance standard for the recently published mental health parity final regulations for the requirements effective for 2025 plan years, due to the short amount of time until 2025.

- The Council also asks for more guidance on the aspects of the final rule effective for 2026 plan years, teeing up the need for good faith relief on those requirements if additional guidance is not provided soon.

The American Benefits Council, alongside other stakeholders including health care groups, insurers and business groups, **submitted comments** to the U.S. departments of Labor, Health and Human Services, and the Treasury (collectively, the "tri-agencies") regarding the final rule implementing the Mental Health Parity and Addiction Equity Act (MHPAEA).

Published in the *Federal Register* on September 23, the final regulations include amendments to the current MHPAEA final regulations (issued in 2013), focused on requirements related to nonquantitative treatment limitations (NQTLs) (*e.g.*, prior authorization) imposed on mental health and substance use disorder benefits, as compared to medical/surgical benefits, and enforces stricter requirements on plans and insurers, mandating updated compliance efforts by January 1, 2025, and additional standards by January 1, 2026.

The October 24 coalition letter offers support for some of the tri-agencies' modifications reflected in the final rule, that were responsive to comments previously submitted by the Council and other stakeholders, including adjustments to the "substantially all/predominant" test for nonquantitative treatment limitations (NQTLs) and the revised fiduciary certification requirement. However, due to the substantial operational and system changes required by the final rule (which the letter explains), the coalition stresses the urgent need for a good faith compliance standard for the requirements effective for plan years beginning on or after January 1, 2025.

The letter further highlights longer-term concerns regarding the January 2026 compliance standards, specifically the relevant data evaluation requirements. The coalition notes that without further guidance on the specific data points and methodologies required, both plan sponsors and third-party administrators will face difficulty adapting data reporting and analysis processes on time. Additionally, if further guidance is not provided this year, a reasonable, good faith compliance standard will be needed for these requirements as well.

Regulatory Agencies Release Cost-of-Living Adjustments for 2025 Tax Year

You Need to Know:

- Almost all statutory limits for retirement, health and fringe benefit plans are set to increase in 2025 due to cost-of-living adjustments.

Annual cost-of-living adjustments have resulted in a number of changes to statutory limits for retirement, health and fringe benefit plans, based on the increase in inflation. Almost all of the applicable limits have increased for 2025.

- Internal Revenue Service (IRS) Notice 2024-80, which includes new contribution limits and other thresholds for retirement plans for Tax Year 2025.

- Pension Benefit Guaranty Corporation (PBGC) 2025 insurance premium amounts, which include increases in the per-participant flat premium rates for single-employer plans and multiemployer plans, as well as the variable-rate premium (VRP) for single-employer plans.

- The Social Security Administration's announced cost of living adjustment increase, triggering 2025 increases in certain tax, benefit and earning amounts, including the retirement earnings test exempt amounts.

- IRS released Revenue Procedure 2024-40, which provides for 2024 inflation adjustments applicable to health flexible spending arrangements and transportation benefits.

- IRS released Revenue Procedure 2024-25, which provides the indexed amounts related to health savings accounts for 2024.

Council Recommends Simplicity for Saver's Match Implementation

You Need to Know:

- The Council has submitted key recommendations to streamline the Saver's Match program's implementation, aiming to ease employer administration of the program and boost retirement plan participation.

One of the American Benefits Council's core aims is to ease regulatory compliance and expand employers' flexibility to design high-quality benefit programs. Along these lines, the Council recently **provided recommendations** to the U.S. Treasury Department and the Internal Revenue Service (IRS) on the implementation of the Saver's Match retirement program.

The Saver's Match, set to launch in 2027 under the SECURE 2.0 Act, provides a government match of up to $1,000 annually for low- and moderate-income individuals contributing to qualified retirement plans. It replaces the Saver's Credit, which only provided a tax credit to offset taxes payable.

The Council's November 4 letter was a response to IRS Notice 2024-65, in which the agency requested input on the rollout of the Saver's Match.

The Council's comments highlight several key recommendations aimed at easing administrative demands. Notably, the Council recommends Treasury establish clear guidelines for employers' human resources (HR) departments, which are likely to field employee questions about eligibility, tax filing requirements and contribution processing. The letter emphasizes the importance of Treasury creating a simple claims process for Saver's Match contributions, minimizing the role of HR to avoid significant financial and administrative strain.

Additional suggestions include allowing plan sponsors the flexibility to decide whether to accept Saver's Match contributions and the ability to reverse this decision if administrative challenges arise. The letter also raises concerns about small, unconnected accounts, recommending the program include safeguards to prevent small Saver's Match contributions from increasing the volume of accounts held for former employees or inactive participants. To address this, the Council suggests Treasury offer plans an option to set a minimum contribution threshold and establish protocols to return unmatched funds.

The letter also recommends providing model notices to streamline employee communication and guidance on handling erroneous contributions. Additionally, the Council suggests plan sponsors receive fiduciary protection for administering Saver's Match contributions and assistance with managing eligibility inquiries, as HR departments may lack full information about employees' income to determine eligibility.

We expect to have additional comments, and the Council will continue to work closely with federal regulatory agencies to provide input on behalf of plan sponsors and ensure the successful rollout of the Saver's Match program.

RECENT LEGISLATIVE ACTIVITY

Senators Unveil Bipartisan Framework for Site-Neutral Payment Reform as Council Pushes for Health Care Cost Reduction Legislation in Lame Duck

You Need to Know:

- In the forthcoming post-election "lame duck" session, Congress may consider legislation to lower health care costs, including measures expanding site-neutral payment reform.

- In support of site-neutral payment reform, two key Senators have offered a framework for enacting site-neutral payment reform in a way that protects rural hospitals.

With the lame duck congressional session slated to start on November 12, lawmakers may consider measures designed to help lower health care costs. The Lower Costs, More Transparency Act (H.R. 5378), which is strongly supported by the American Benefits Council and passed the U.S. House of Representatives in December 2023 with a strong bipartisan vote, could receive consideration as part of a larger legislative package.

One of the key elements of H.R. 5378 is its expansion of site-neutral payment reform, under which payments for physician-administered drugs in off-campus hospital outpatient departments (HOPDs), are aligned with rates in freestanding physician offices ambulatory surgical centers (ASCs).

The Council has strongly endorsed site-neutral payment reform as a way to discourage provider consolidation and hospital acquisitions of physician practices, thereby lowering costs for all payers. Opponents have argued, however, that it would limit and eliminate critical hospital-based care, particularly in rural areas.

In response, Senators Bill Cassidy (R-LA) and Maggie Hassan (D-NH) released **a policy framework** on November 1 that seeks to advance site-neutral payment reform more broadly while also addressing concerns about negative financial consequences for rural hospitals. (Cassidy is the top Republican on the Senate Health, Education, Labor, and Pensions Committee, which shares jurisdiction over health policy matters.)

The framework proposes two policy options:

- Expanding the site-neutral payment policy to all hospital-owned sites by eliminating an exemption for existing facilities or those under construction at the time of passage.

- Establishing site-neutral payments for common outpatient services, such as imaging and lab tests, which could yield savings that would be invested in rural and high-needs hospitals.

In a statement issued upon the release of the policy framework, Ilyse Schuman, the Council's senior vice president, health and paid leave policy, said, "Employers see site-neutral payment reform as critically important policy to restore competition among health care providers and to better align incentives with value, which are essential to lowering health care costs. The bipartisan framework set forth today by Senators Cassidy and Hassan not only recognizes the problem but offers common-sense solutions that will lower costs while protecting rural hospitals. We applaud them for leading the charge against runaway health care prices and urge all of Congress to follow their example."