

REFORM *Update*

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As of the first day of the first plan year following September 23, 2010, health care reform eliminated lifetime dollar maximums on “essential benefits.” Annual dollar limits for essential benefits are allowed only until 2014 and must meet specified limits. The guidance has set forth annual restricted dollar limits of no less than the following:

1. Plan years on or after September 23, 2010 and before September 23, 2011 = \$750,000
2. Plan years on or after September 23, 2011 and before September 23, 2012 = \$1,250,000
3. Plan years on or after September 23, 2012 and before September 23, 2013 = \$2,000,000

This requirement could be waived for certain plans if compliance would cause a significant increase in cost or a significant decrease in benefits.

As of today, essential benefits include:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

The Office of Consumer Information and Oversight recently issued supplemental guidance on health reimbursement arrangements (HRAs) and the annual restricted dollar limit requirements. HRAs are self-funded reimbursement plans funded solely by employers that:

1. Reimburse some or all of the medical care expenses for eligible employees, spouses and dependents up to a maximum dollar amount during a specified coverage period.
2. Typically allows participants to carry forward unused amounts remaining at the end of the coverage period to be used in subsequent coverage periods.

Previous guidance created a distinction between stand-alone HRAs and those that are integrated with other group health plan coverage. HRAs integrated with a health plan are not obligated by itself to meet the lifetime limit or annual limit rules, if the health plan does.

However, some employers offer stand-alone HRAs that are unaffiliated with an underlying health plan. All HRAs set a benefit limit, which will almost always fall below the permitted annual restricted dollar amount. It is assumed that a change to comply with this requirement would result in a significant increase in cost, or would prompt employers to drop coverage. As a result, the new guidance exempts all stand-alone HRAs from complying with the annual restricted dollar limits provided:

- The HRA plan was in effect prior to September 23, 2010.
- The exemption applies to plan years beginning on or after September 23, 2010, but before January 1, 2014.

The guidance essentially refers back to the ability to request a waiver on the annual restricted dollar limit requirements. But instead of requiring employers to apply for waivers for their stand-alone HRA plans, employers are simply granted a global waiver. However, they will still have to comply with the record retention and notification requirements for plans approved for a waiver. Details on those requirements can be found at http://www.mcwent.com/Reform_Update/Reform_Update_20.pdf.

The government has not yet commented on how stand-alone HRAs will be treated after 2014, when the “play or pay” mandates go into effect. It is likely they will address this issue in future guidance.

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