



# Looking Ahead: 2022 Compliance News

Top compliance updates employers and consultants need to know for the upcoming year.

## ACA OOP Limitations

The November 24, 2020, [proposed 2022 Notice of Benefit and Payment Parameters](#) ("2022 NBPP") set ACA Out-of-Pocket Limitations at \$9,100 for self-only coverage and \$18,200 for other than self-only coverage. However, the HHS finalized a change in the calculation of the premium adjustment percentage and cost-sharing parameters in its [19 January 2021 final 2022 NBPP](#) and lowered the values for the 2022 plan year limitations on cost-sharing.

The maximum out-of-pocket limits for plan years beginning on or after January 1, 2022, are as follows:

	2021	2022	Change from 2021
Self-Only	\$8,550	\$8,700	+\$150
Family	\$17,100	\$17,400	+\$300

## HSA and HDHP Limitations

On May 10, 2021, the IRS released [Rev. Proc. 2021-25](#) which sets forth the health savings account ("HSA") and high deductible health plan ("HDHP") limits for 2022.

	2021	2022
HSA Contribution Limit	Self-Only: \$3,600 Family: \$7,200	Self-Only: \$3,650 Family: \$7,300
Catch-Up Contribution Limit (for HSA-eligible participants who turn 55 by year-end)	\$1,000	\$1,000
Minimum HDHP Deductible	Self-Only: \$1,400 Family: \$2,800	Self-Only: \$1,400 Family: \$2,800
HDHP OOP Maximum	Self-Only: \$7,000 Family: \$14,000	Self-Only: \$7,050 Family: \$14,100

## Health Flexible Spending Arrangement ("health FSA") Limitations

[Section 214 of the Consolidated Appropriations Act of 2021](#) (the "CAA") allows employers to amend their health FSA plans, among other things, so that participants do not have to give up unused amounts for the 2020 and 2021 plan years. On February 18, 2021, the IRS issued [Notice 2021-15](#) which gives employers guidance on what they can amend their § 125 cafeteria plans to include, such as:

- Allowing participants to carry over unused amounts of their health FSAs from the 2020 and 2021 plan years;
- Extending the allowable period for incurring claims in 2020 and 2021;
- Granting a special claims period and carryover rule for dependent care assistance programs; and
- Allowing particular mid-year election changes for the health FSA and dependent care programs for plan years ending in 2021.

Employers should note that the options outlined in [Notice 2021-15](#) are optional and not required. However, any relief options that the employer chooses to adopt, must be documented in a plan amendment, and operate consistently with the changes made beginning with the effective date of the change.

## Affordability Threshold and Poverty Guidelines

The IRS issued [Rev. Proc. 2021-36](#) on September 7, 2021, which decreases the affordability threshold for ACA employer mandate purposes to 9.61% for plan years beginning in 2022 for employers using a [safe harbor](#) to avoid § 4980H(b) [Employer Shared Responsibility Provision](#) penalties.

As specified in, the following formula shows the maximum self-only monthly contribution for Plans using the Federal Poverty Line Safe Harbor: (9.61% x [2022 Poverty Guideline](#)) / 12.

Jurisdiction	2021 Poverty Guidance	Maximum Self-Only Monthly Contribution (2021)
Alaska	\$16,090	\$128.85
Hawaii	\$14,820	\$118.68
Any Other US State	\$12,880	\$103.15
District of Columbia	\$12,880	\$103.15

For more information about ESRP, generally, please visit <https://sgp.fas.org/crs/misc/R45455.pdf>, and for more information regarding the safe harbor(s) please visit <https://www.govinfo.gov/content/pkg/FR-2014-02-12/pdf/2014-03082.pdf>.

## 2022 Medicare Part D Benefit Parameters

On January 15, 2021, CMS issued the [2022 Medicare Advantage and Part D Rate Announcement](#), which includes the Part D Benefit Parameters used to determine whether coverage is creditable for required disclosures. Table V-2, pp. 75-76, show the "Standard Benefit" parameters for 2022 which will be used to determine whether coverage is creditable:

Standard Benefit	2022 Parameter	Change from 2021
Deductible	\$480	+\$35
Initial Coverage Limit	\$4,430	+\$300
Out-of-Pocket Threshold (See FN1)	\$7,050	+\$500
Total Covered Part D Spending at the Out-of-Pocket Threshold for Non-Applicable Beneficiaries (defined in FN3)	\$10,012.50	+\$698.75
Estimated Total Covered Part D Spending for Applicable Beneficiaries (defined in FN4)	\$10,690.20	+\$641.81
Minimum Cost-Sharing in Catastrophic Coverage Portion of the Benefit (Generic/Preferred Multi-Source Drugs)	\$3.95	+\$0.25
Minimum Cost-Sharing in Catastrophic Coverage Portion of the Benefit (Other)	\$9.85	+\$0.65

For more information about Creditable Coverage, please visit the [Creditable Coverage](#) section of [CMS.gov](#).

## Preventive Service Guidelines

§ 2713 of the [Affordable Care Act](#) provides sources for preventive services that must be covered under the health reform law without cost-sharing requirements, which are generally summarized at <https://www.healthcare.gov/coverage/preventive-care-benefits/>. The specific resources for employers and plan advisors to review include "evidence-based items or services that have in effect a rating of 'A' or 'B' in the current recommendations of the United States Preventive Services Task Force" ("USPSTF"). Find more specific guidance [here](#). The following items were released in 2021:

Topic	Description	Grade	Release Date of Current Recommendation
Colorectal Cancer: Screening: adults aged 50 to 75 years	The USPSTF recommends screening for colorectal cancer in all adults aged 50 to 75 years. See the "Practice Considerations" section and Table 1 for details about screening strategies.	A	May 2021*
Colorectal Cancer: Screening: adults aged 45 to 49 years	The USPSTF recommends screening for colorectal cancer in adults aged 45 to 49 years. See the "Practice Considerations" section and Table 1 for details about screening strategies	B	May 2021*
Gestational Diabetes: Screening: asymptomatic pregnant persons at 24 weeks of gestation or after	The USPSTF recommends screening for gestational diabetes in asymptomatic pregnant persons at 24 weeks of gestation or after.	B	August 2021*
Healthy Weight and Weight Gain In Pregnancy: Behavioral Counseling Interventions: pregnant persons	The USPSTF recommends that clinicians offer pregnant persons effective behavioral counseling interventions aimed at promoting healthy weight gain and preventing excess gestational weight gain in pregnancy.	B	May 2021
Hypertension in Adults: Screening: adults 18 years or older without known hypertension	The USPSTF recommends screening for hypertension in adults 18 years or older with office blood pressure measurement (OBPM). The USPSTF recommends obtaining blood pressure measurements outside of the clinical setting for diagnostic confirmation before starting treatment.	A	April 2021*
Lung Cancer: Screening: adults aged 50 to 80 years who have a 20 pack-year smoking history and currently smoke or have quit within the past 15 years	The USPSTF recommends annual screening for lung cancer with low-dose computed tomography (LDCT) in adults aged 50 to 80 years who have a 20 pack-year smoking history and currently smoke or have quit within the past 15 years. Screening should be discontinued once a person has not smoked for 15 years or develops a health problem that substantially limits life expectancy or the ability or willingness to have curative lung surgery.	B	March 2021*
Screening for Prediabetes and Type 2 Diabetes: asymptomatic adults aged 35 to 70 years who have overweight or obesity	The USPSTF recommends screening for prediabetes and type 2 diabetes in adults aged 35 to 70 years who have overweight or obesity. Clinicians should offer or refer patients with prediabetes to effective preventive interventions.	B	August 2021
Tobacco Smoking Cessation in Adults, Including Pregnant Persons: Interventions: pregnant persons	The USPSTF recommends that clinicians ask all pregnant persons about tobacco use, advise them to stop using tobacco, and provide behavioral interventions for cessation to pregnant persons who use tobacco.	A	January 2021*

\*Previous recommendation was an "A" or "B."

The HHS, under the standards set out in revised Section 2713(a)(5) of the Public Health Service Act and Section 9(h)(v)(229) of the 2015 CAA, utilizes the [2002 recommendation on breast cancer screening](#) of the USPSTF. To see the USPSTF 2016 recommendation on breast cancer screening, go to <http://www.uspreventiveservicestaskforce.org/uspstf/recommendation/breast-cancer-screening1>.

View [FAQ 47](#) for further clarification on the USPSTF recommendations and implementation of the ACA.

## Patient-Centered Outcomes Research Institute ("PCORI") Fees

IRS [Notice 2020-44](#) reiterates that the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94), signed into law on December 20, 2019, has extended the [PCORI Fee](#) imposed by Internal Revenue Code sections 4375 and 4376 for 10 years through 2029. As Healthgram's [Q1, 2020 Compliance Update](#) states:

- The Patient-Centered Outcomes Research Institute (PCORI) was established under ACA to conduct research to evaluate the effectiveness of medical treatments, procedures, and strategies that treat, manage, diagnose, or prevent illness or injury.
- The research considers both the effectiveness of the treatment, as well as an individual's decisions and outlook regarding the treatment.
- The PCORI fee requires self-insured employers and insurers to pay an annual fee to fund the medical research.

## 2022 FSA Contributions

2022 FSA Contribution Limits will be announced soon. Once that information is released, we'll update this section accordingly.

	2021	2022
FSA Contribution Limit	\$2,750	To Be Announced

To speak with a member of our team regarding Healthgram self-funded plans, [contact us here](#).