

COMPLIANCE UPDATE

Q4, 2020

Looking Ahead: 2021 Compliance News

ACA OOP Limitations

On May 13, 2020, the Department of Health and Human Services [released](#) the 2021 Affordable Care Act (“ACA”) out-of-pocket (“OOP”) maximums for 2021. ACA OOP limitations increased 4.9%.

	2020	2021
Self-Only	\$8,150	\$8,550
Family	\$16,300	\$17,100

HSA and HDHP Limitations

On May 21, 2020 the IRS [released](#) the health savings account (“HSA”) and high deductible health plan (“HDHP”) limits for 2021. Beginning in 2021, the [HSA carry over limit is \\$550](#) (instead of \$500). The maximum unused amount remaining in a health FSA from a plan year beginning in 2019 allowed to be carried over to the immediately following plan year beginning in 2020 is \$500, whereas the maximum unused amount remaining in a health FSA from a plan year beginning in 2020 allowed to be carried over to the immediately following plan year beginning in 2021 is \$550 (20 percent of \$2,750, the indexed 2020 limit under § 125(i)). See [Notice 2020-33](#).

	2020	2021
HSA Contribution Limit	Self-Only: \$3,550 Family: \$7,100	Self-Only: \$3,600 Family: \$7,200
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: \$6,900 Family: \$13,800	Self-Only: \$7,000 Family: \$14,000

Poverty Guidelines

The IRS [released](#) the 2020 Affordability Percentage (9.83%) for employers using the federal poverty line safe harbor to avoid § 4980H(b) [Employer Shared Responsibility penalties](#). As specified in [FAQ No. 29](#), the following formula shows the maximum self-only monthly contribution for Plans using this safe harbor: $(9.83\% \times \text{2020 Poverty Guideline}) / 12$.

Jurisdiction	2020 Poverty Guidance	Maximum Self-Only Monthly Contribution (2021)
Alaska	\$15,950	\$130.66
Hawaii	\$14,680	\$120.25
Any other U.S. State	\$12,760	\$104.53
District of Columbia	\$12,760	\$104.53

2021 Medicare Part D Benefit Parameters

On April 6, 2020, CMS issued the 2021 Medicare Part D Benefit Parameters used in determining whether coverage is creditable for required disclosures. View guidance [here](#). Pages 71-72 show the “Standard Benefit” parameters for 2021, which will be used to determine whether coverage is creditable:

Standard Benefit	2021 Parameter	Change from 2020
Deductible	\$445	+\$10
Initial Coverage Limit	\$4,130	+\$110
Out-of-Pocket Threshold (see FN1)	\$6,550	+\$200
Total Covered Part D Spending at the Out-of-Pocket Threshold for Non-Applicable Beneficiaries (defined in FN3)	\$9,313.75	+\$275
Estimated Total Covered Part D Spending for Applicable Beneficiaries (defined in FN4)	\$10,048.39	+\$329.01
Minimum Cost-Sharing in Catastrophic Coverage Portion of the Benefit	Generic / Preferred Multi-Source Drugs	+\$0.10
	Other	+\$0.25

For more information about Credible 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](#)[.]” Find more specific guidance [here](#). The following items were released in 2020:

Topic	Description	Grade	Release Date of Current Recommendation
Hepatitis C Virus Infection in Adolescents and Adults: Screening: adults aged 18 to 79 years	The USPSTF recommends screening for hepatitis C virus (HCV) infection in adults aged 18 to 79 years.	B	March 2020*
Prevention and Cessation of Tobacco Use in Children and Adolescents: Primary Care Interventions: school-aged children and adolescents who have not started to use tobacco	The USPSTF recommends that primary care clinicians provide interventions, including education or brief counseling, to prevent initiation of tobacco use among school-aged children and adolescents.	B	April 2020*
Unhealthy Drug Use: Screening: adults age 18 years or older	The USPSTF recommends screening by asking questions about unhealthy drug use in adults age 18 years or older. Screening should be implemented when services for accurate diagnosis, effective treatment, and appropriate care can be offered or referred. (Screening refers to asking questions about unhealthy drug use, not testing biological specimens.)	B	June 2020*
Sexually Transmitted Infections: Behavioral Counseling: sexually active adolescents and adults at increased risk	The USPSTF recommends that primary care clinicians provide interventions, including education or brief counseling, to prevent initiation of tobacco use among school-aged children and adolescents.	A	August 2020*

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

Preventive Service Guidelines Continued

The Department of Health and Human Services, 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 Consolidated Appropriations Act, utilizes the [2002 recommendation on breast cancer screening](#) of the U.S. Preventive Services Task Force. To see the USPSTF 2016 recommendation on breast cancer screening, go to <http://www.uspreventiveservicestaskforce.org/uspstf/recommendation/breast-cancer-screening1>.

PCORI Fees

Per [IRS guidance](#), the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94), signed into law on December 20, 2019, has extended the [Patient-Centered Outcomes Research Trust Fund fee](#) imposed by Internal Revenue Code sections 4375 and 4376 for 10 years. As a result of this extension, the Patient-Centered Outcomes Research Trust Fund fee will continue to be imposed through 2029.

2021 FSA Contributions

The IRS confirmed in [Revenue Procedure 2020-45](#) that for plan years beginning on or after January 1, 2021, the health FSA salary reduction contribution limit will remain at \$2,750.

	2020	2021
FSA Contribution Limit	\$2,750	\$2,750