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# HSAs & Preventive Coverage

In IRS Notice 2019-45, the IRS expanded upon what is considered to be preventive coverage for purposes of determining eligibility to contribute to a health savings account (HSA). The guidance comes shortly after the issuance of President Trump's executive order requesting that the agency provide further flexibility for those with chronic conditions to receive coverage for such conditions while maintaining HSA eligibility.

## HSA ELIGIBILITY RULES

To be eligible to contribute to an HSA, an individual:

- Must be enrolled in a qualifying high-deductible health plan (HDHP);
- May not have any other "disqualifying coverage"; and
- Cannot be claimed as a tax dependent by another individual.

Most medical coverage available to an individual prior to meeting the statutory HDHP deductible ($1,400 for single/$2,800 for family in 2020) will cause HSA ineligibility. So, for example, coverage under a non-HDHP, a general-purpose health FSA or HRA, or Medicare would cause an individual to be ineligible to contribute to an HSA.

There is an exception for preventive coverage, as well as for permitted insurance and permitted coverage. Individuals who have such coverage prior to meeting the minimum statutory HDHP deductible remain eligible to contribute to an HSA.

- Permitted insurance includes:
  - » Insurance in which substantially all of the coverage relates to liabilities incurred under workers' compensation laws; tort liabilities; liabilities relating to ownership or use of property (e.g., homeowner or auto insurance); or similar liabilities as specified by the IRS;
  - » Insurance for a specified disease or illness (e.g., cancer insurance); and
  - » Insurance that pays a fixed amount per day (or other period) of hospitalization (e.g., hospital indemnity insurance).
- Permitted coverage includes coverage for accidents, disability, dental care, vision care, or long-term care.
- Preventive coverage, the definition of which is expanded by this latest IRS guidance, is described in detail below.

## PREVENTIVE COVERAGE

Preventive coverage for purposes of determining HSA eligibility includes preventive services described in IRS Notice 2004-23 (https://www.irs.gov/pub/irs-drop/n-04-23.pdf) and items considered to be preventive care and required to be covered with no cost-sharing under the ACA (PHSA §2713).

Preventive coverage generally does not include any service or benefit intended to treat an existing illness, injury, or condition (IRS Notice 2004-23). In addition, IRS Notice 2004-50 indicates that drugs or medications are preventive care when taken by a person who has developed risk factors only for a disease that has not manifested itself or become clinically apparent, or to prevent the recurrence of a disease from which a person has recovered.

However, in an effort to encourage treatment for some chronic illnesses, IRS guidance now expands the definition of preventive coverage to include the following medical care services and items:

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| Preventive Care for Specified Conditions | For Individuals Diagnosed With |
|---|---|
| Angiotensin Converting Enzyme (ACE) inhibitors | Congestive heart failure, diabetes, and/or coronary artery disease |
| Anti-resorptive therapy | Osteoporosis and/or osteopenia |
| Beta-blockers | Congestive heart failure and/or coronary artery disease |
| Blood pressure monitor | Hypertension |
| Inhaled corticosteroids | Asthma |
| Insulin and other glucose-lowering agents | Diabetes |
| Retinopathy screening | Diabetes |
| Peak flow meter | Asthma |
| Glucometer | Diabetes |
| Hemoglobin A1c testing | Diabetes |
| International normalized ratio (INR) testing | Liver disease and/or bleeding disorders |
| Low-density lipoprotein (LDL) testing | Heart disease |
| Selective serotonin reuptake inhibitors (SSRIs) | Depression |
| Statins | Heart disease and/or diabetes |

The IRS used the following criteria to identify which services and items were put on the list:

- The service or item is low-cost;
- There is medical evidence supporting high cost efficiency (a large expected impact) of preventing exacerbation of the chronic condition or the development of a secondary condition; and
- There is a strong likelihood, documented by clinical evidence, that with respect to the class of individuals prescribed the item or service, the specific service or use of the item will prevent the exacerbation of the chronic condition or the development of a secondary condition that requires significantly higher cost treatments.

These specified services and items are treated as preventive coverage only when prescribed to treat an individual diagnosed with the associated chronic condition, and only when prescribed for the purpose of preventing the exacerbation of the chronic condition or the development of a secondary condition.

Services or items that meet these criteria but are not on the list are not treated as preventive coverage. However, this list will likely change over time. The guidance indicates the agencies will review and update the list periodically (every 5–10 years).

NOTE: This expanded definition of "preventive coverage" for purposes of determining HSA eligibility does NOT change the definition of preventive services under the ACA for purposes of complying with the no cost-sharing requirement.

## SUMMARY

This guidance, expanding the definition of preventive coverage for purposes of determining HSA eligibility, is

effective almost immediately (July 19, 2019). Individuals who are prescribed the services or items for the associated chronic condition listed in the table and who are otherwise eligible to contribute to an HSA will now be able to have coverage for such services or items prior to meeting the minimum statutory HDHP deductible without being ineligible to contribute to an HSA. Although the guidance does not require group health plans to add or expand coverage for the services and items listed, plan sponsors may want to include such items as preventive coverage under HDHP coverage going forward. We would recommend that plan sponsors review what is currently covered as preventive and/or what is covered prior to meeting the HDHP deductible and make appropriate changes if desired.

The IRS Notice 2019-45 can be found here – https://www.irs.gov/pub/irs-drop/n-19-45.pdf.

For more general information about requirements for HSA eligibility, contributions, and reimbursements, ask your Parker, Smith & Feek Benefits team for a copy of our HSA Guide.

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