



DI_✓ERSIFIED BENEFIT SER_✓VICES, INC.

Dedicated to Excellence in Benefit Management Solutions

DBS Notice: 4/3/2014

ACA Deductible Provision Repealed! Great News for Small Employer Group Health Insurance Plans as well as HRAs, FSAs and HSAs!

Background

On February 22, 2013 HHS released its final rule on the Patient Protection and Affordable Care Act (ACA) regarding Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation (45 CFR Parts 147, 155, and 156). One of the items that the final rule covered was exchange and issuer standards related to coverage of essential health benefits, including maximum deductibles in the small group market.

Specifically with respect to maximum deductibles, the rule stated that ‘...we continue to believe that only plans and issuers in the small group market are subject to the deductible limits described in section 1302(c)(2)....’

The final rule would not have allowed small group market health plans to offer deductibles greater than \$2,000 for self only and \$4,000 for family coverage. Many employers have health plans with deductible amounts greater than the aforementioned limits and wanted to utilize a Health Reimbursement Arrangement (HRA), Health Savings Account (HSA) or Flexible Spending Account (FSA) to reduce the deductible expense limits for single and family coverage to \$2,000 and \$4,000 respectively.

What does the ‘Protecting Access to Medicare Act of 2014’ (New Law) Include?

The new law includes an important provision that repeals a restrictive section of the ACA that pertained to small employer plans. Specifically, Section 213 of the new law eliminates deductible limits imposed under the ACA for the small employer market health plans. Section 1302(c)(2) of the ACA formerly limited deductible amounts offered by small employer plans to \$2,000 for single coverage and \$4,000 for families. These limits do not apply to large employers or self-funded plans and now will not apply to small employers due to the new law.

How does the Repeal Affect Small Employers and Account Based Plans such as HRAs, FSAs & HSAs?

The ability to have competitive and cost effective health plans outside of a state or federal insurance exchange is very important for many employers. The repeal is great news for employers throughout the United States who are looking for a way to retain HDHP group health plans and potentially use an HRA, FSA or HSA in conjunction with the HDHP.

Employer contributions to an HRA/HSA/FSA can provide an important reimbursement safety net for employees. This allows small employers to reduce health costs by purchasing HDHP’s above the former \$2,000/\$4,000 limits and then use an HRA, HSA or FSA for reimbursements to employees based on how the employer wants to design their plan. Employers can continue to offer competitive cost effective group health insurance coverage outside of the exchange environment and not be restricted as to the deductible levels.

For example, a small employer could purchase a \$5,000 single/\$10,000 family deductible group health insurance plan outside of an exchange and then use HRA reimbursements as a safety net to bring the actual employee deductible expense down to levels that conform to the employer’s plan design.



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How was this Achieved?

DBS had worked on the deductible restriction issue with the Wisconsin Office of the Insurance Commissioner in 2013. We also released a notice on 7/29/2013 that detailed the issue and some of the discussions that were held with WI OIC. The DBS notice also included examples regarding how HRA, FSA and HSA could be used as solutions for small employers. It is good to see that the ACA deductible provision has been repealed so that small employers could utilize any HDHP in their benefit planning process.

DBS is also a member of the Employer's Council on Flexible Compensation (ECFC), a premier Washington, D.C. based trade organization. DBS works closely with ECFC and with congressional members and staff representatives. ECFC joined with several other organizations in a successful advocacy effort at both the state and federal levels to get this provision repealed. This is a great victory for consumer based healthcare and benefit accounts as it will allow small employers the opportunity to continue to offer affordable health plans along with flexible compensation options such as HRAs, FSAs and HSAs.

The ACA deductible limit repeal was passed by the House of Representatives on Thursday 3/27/2014 and then passed by the U.S. Senate on Monday 3/31/2014. It was signed into law by the President on Tuesday 4/1/2014.

What is the Effective Date of the Deductible Change?

The deductible repeal (Section 213 of the new law) shall be effective as if included in the enactment of the ACA (Public Law 111-148) in 2010.