Proposed 2022 Benefit Payment and Parameters Rule

DEC 2020 | SSG COMPLIANCE ADVISOR

STRATEGIC SERVICES GROUP

The Centers for Medicare & Medicaid Services (CMS) has released a proposed rule and fact sheet for benefit payment and parameters for 2022. CMS has also released its draft 2022 actuarial value calculator and draft 2022 actuarial value calculator methodology.

According to CMS, the proposed rule is intended to reduce fiscal and regulatory burdens associated with the Patient Protection and Affordable Care Act (ACA) across different program areas and to provide stakeholders with greater flexibility.

Although the proposed rule would primarily affect the individual market and the Exchanges, as well as pharmacy benefit managers, the proposed rule addresses the following topics that may impact employer-sponsored group health plans:

- Maximum annual limitation on cost sharing for plan year 2022
- Premium payments on behalf of individuals with individual coverage health reimbursement arrangements (ICHRAs) and qualified small employer health reimbursement arrangements (QSEHRAs) that are made to issuers of individual health plans
- Medical Loss Ratio (MLR) rebates

Public comments on the proposed rule are due by 5:00 p.m. on December 30, 2020.

The 2022 open enrollment period will run from November 1, 2021, to December 15, 2021.

Maximum annual limitation on cost sharing for plan year 2021

CMS provides that the 2022 maximum annual limitation on cost sharing is $9,100 for self-only coverage and

$18,200 for other than self-only coverage. This represents an approximately 6.4 percent increase above the 2021 parameters of $8,550 for self-only coverage and $17,100 for other than self-only coverage.

Premium payment for individual market plans through an ICHRA or QSEHRA

The proposed rule would require issuers in the individual market to accept premium payments on behalf of an enrollee from an ICHRA or QSEHRA using the following methods of payment: paper checks, cashier's checks, money orders, EFT, and all general-purpose pre-paid debit cards. This rule is proposed in order to avoid confusion regarding whether issuers must accept payments from an ICHRA or QSEHRA.

MLR Rebates

CMS proposes to finalize its recent temporary policy allowing issuers in the individual and small group market to offer temporary premium credits during a public health emergency declared by the Secretary of the Department of Health and Human Services (HHS) for 2020 coverage and would extend this policy for the 2021 benefit year and beyond when such credits are permitted by HHS through an announced policy similar to the temporary policy for 2020 coverage.

Under a recent CMS temporary policy, issuers are allowed to prepay a portion or all of the estimated MLR rebate for the 2019 MLR reporting year in the form of a premium credit to the extent permitted under state law or other state authority. The proposed rule would allow issuers to prepay a portion or all of their estimated rebates to enrollees for any MLR reporting year regardless of the form in which they are paid. The proposed rule would create a safe harbor for issuers that prepay at least 95 percent of the total rebate owed by the MLR rebate payment deadlines, to defer the payment of rebates remaining after prepayment until the MLR rebate payment deadlines for the following MLR reporting year.

Due to the proposed rule noted above allowing issuers to prepay a portion or all of their estimated MLR rebates regardless of the form in which they are paid, the proposed rule would allow issuers to provide MLR rebates in the form of a premium credit that must be applied to premiums due no later than October 30 following the MLR reporting year (under the current rules, issuers providing MLR rebates in the form of a premium credit must apply the rebate to the first month's premium that is due on or after September 30 following the MLR reporting year). This proposed provision would be applicable beginning with the 2020 MLR reporting year (that is, for rebates due in 2021).

12.02.20