

May 2015

Regulatory Updates

Independence Administrators is here to help you navigate the changes

Regulatory Updates is an online news series designed to help you understand the changes resulting from the Affordable Care Act (ACA) and other regulatory changes and how they may affect your plan and plan members. We are committed to bringing you current regulatory information to help you make informed decisions.

Proposed rule for ADA wellness programs

The U.S. Equal Employment Opportunity Commission (EEOC) published a Notice of Proposed Rulemaking (NPRM) in the [Federal Register](#) on April 20, 2015, explaining how Title I of the Americans with Disabilities Act (ADA) applies to employer wellness programs that are part of group health plans. The NPRM published on April 20 will be available for public comment until June 19, 2015.

The EEOC's proposed rule provides guidance to employers and employees about how wellness programs that are part of an employer's group health plan can comply with the ADA provisions governing wellness programs in the Health Insurance Portability and Accountability Act (HIPAA), as amended by the Affordable Care Act. In addition, the EEOC also published a [Fact Sheet for Small Businesses](#) and a [Question and Answer](#) document.

Employers who provide health coverage may also offer workplace wellness programs intended to encourage healthier lifestyles or disease prevention. These wellness programs sometimes use health risk assessments and biometric screenings to determine an employee's health risk factors, such as body weight and cholesterol, blood glucose, and blood pressure levels. Some of these programs offer financial and other incentives for employees who participate or achieve certain health outcomes.

Although the ADA limits what employers may ask employees about their health and the employer's ability to require them to undergo medical examinations, it allows these inquiries and exams if they are voluntary and part of an employee health program.

The NPRM requires that if an employee health program seeks information about employee health or medical examinations, the program must also promote health or disease prevention. Employees may not be required to participate in a wellness program, and they may not be denied health coverage or disciplined if they refuse to participate.

How much reinsurance contributions has CMS collected?

The Centers for Medicare & Medicaid Services (CMS) recently released [information](#) for the transitional reinsurance contribution amounts the Department of Health and Human Services (HHS) has collected for the 2014 benefit year and how much will be used for transitional reinsurance payments.

As of March 31, 2015, HHS has collected more than \$8.7 billion in reinsurance contributions for the 2014 benefit year. Approximately \$1 billion more is expected to be collected on or before November 15, 2015. As stipulated in the Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond Final Rule (79 FR 30257), the first \$10 billion in contributions collected will be allocated for reinsurance payments to issuers of non-grandfathered reinsurance-eligible individual market plans. If the statutory collection target for reinsurance payments for the 2014 benefit year is achieved, then any contributions collected between \$10 billion and \$12.02 billion will be allocated on a pro rata basis to the general fund of the U.S. Treasury and for administrative expenses.

FAQs on proposed SBC changes

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The Departments of Labor, Health and Human Services, and Treasury have proposed changes to the Summary of Benefits and Coverage (SBC) regulations, as well as a new SBC template and associated documents. The Departments have released [FAQ XXIV](#) providing further guidance around the proposed changes.

The proposed changes to the SBC regulations, template, and associated documents are expected to take effect beginning September 1, 2015.

The Departments will finalize changes to the regulations in the near future, which are intended to apply in connection with coverage that would renew or begin on the first day of the first plan year beginning on or after January 1, 2016 (including open enrollment periods that occur in the fall of 2015 for coverage

beginning on or after January 1, 2016).

The Departments will also use consumer testing and offer an opportunity for the public, including the National Association of Insurance Commissioners, to provide comment before finalizing revisions to the SBC template and associated documents.

Resources:

Previous alert topics on the [Affordable Care Act](#)
Previous issues of [Regulatory Updates newsletters](#)
Independence Administrators' [health care reform page](#)

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