November 10, 2021

A Summary of 2022 Health and Welfare Plan Limits and Other Annual Adjustments

The Internal Revenue Service (IRS) released Revenue Procedure 2021-45 on November 10, 2021, which contains the 2022 inflation adjustments for various employee benefit plans, including health care flexible spending accounts (HCFSAs), qualified transportation fringe benefits, and adoption assistance programs. This Alert also summarizes other health and welfare benefit plan limits announced earlier this year, and provides a brief summary of changes to the employer shared responsibility penalties under the Affordable Care Act (ACA).

If you have any questions or need further details about the tax limits and how they will affect your employee benefit programs, please contact your account team.

Health & Welfare Plan Inflation Adjustments

As expected, the 2022 HCFSA employee contribution limit increased slightly from 2021 by $100. Employees can contribute up to $2,850 for plan years beginning on or after January 1, 2022. Employer contributions, if any, do not count against this $2,850 limit.

We provide a comparison of FSA limits for 2021 and 2022 below.

FSA Plan Design Limits		
Item	2021	2022
HCFSA Salary Reduction Limit	$2,750	$2,850
HCFSA Carryover Limit	$550	$570
DCFSA Annual Limit	$5,000 (optional up to $10,500)	$5,000

Note: IRS Notice 2021-15 enables employers to allow unlimited carryovers for both types of FSAs from plan years *ending* in 2021 to plan years *ending* in 2022. An unlimited carryover does not count toward the next year's contribution limit, and this is also true for amounts remaining available in a subsequent plan year due to an extended grace period. An employer may adopt an unlimited carryover or an extended grace period, but it cannot adopt both for the same FSA.

Qualified Transportation Fringe Benefits

The monthly dollar limit for employee contributions increased to **$280** per month for the value of transportation benefits provided to an employee for qualified parking. The combined transit pass and vanpooling expense limit also increased to **$280** per month.

Adoption Credit/Adoption Assistance Programs

In the case of an adoption of a child, the maximum credit allowed under Code Section 23 increases to **$14,890**. Similarly, the maximum amount that an employer can exclude under Code Section 137 from an employee's income for adoption assistance benefits increases to **$14,890**. The income threshold at which the credit (and income exclusion for employer provided benefits) begins to phase out increases to $223,410 and is completely phased out for taxpayers with modified adjusted gross incomes of $263,410 or more.

Other Health and Welfare Plan Limits

In May, the U.S. Department of Health & Human Services (HHS) released its Notice of Benefit and Payment Parameters for 2022, and the IRS released Revenue Procedure 2021-25. These two releases contain the 2021 inflation adjustments for non-grandfathered health plans subject to the ACA, qualified high-deductible health plans (HDHPs), and health savings accounts (HSAs). For comparison purposes, the 2021 and 2022 limits are below:

ACA Plan Design Limits		
Item	**2021**	**2022**
Out-of-Pocket Maximum Limit[1]	Self-only: $8,550 Family: $17,100	Self-only: $8,700 Family: $17,400
Embedded Self-Only Out-of-Pocket Maximum Limit[1]	$8,550	$8,700

HDHP and HSA Annual Limits		
Item	**2021**	**2022**
HDHP Minimum Deductible	Self-only: $1,400 Family: $2,800	Self-only: $1,400 Family: $2,800
Minimum Embedded Individual Deductible (if used)	$2,800	$2,800
HDHP Out-of-Pocket Maximum Limit	Self-only: $7,000 Family: $14,000	Self-only: $7,050 Family: $14,100
Embedded Self-Only Out-of-Pocket Maximum Limit[1]	$8,550	$8,700
HSA Annual Contribution Limit	Self-only: $3,600 Family: $7,200	Self-only: $3,650 Family: $7,300
HSA Catch-up Contribution Limit (age 55 and older)	$1,000	$1,000

[1] Limits do not apply to grandfathered plans under the ACA.

Increases to ACA Employer Mandate Penalties

Section 4980H Penalties

The ACA's employer shared responsibility mandate requires Applicable Large Employers (ALEs) to offer medical coverage to their full-time (FT) employees[2] in order to avoid potential penalties.

- The Section 4980H(a) penalty (the "no offer" penalty) – This penalty is triggered when an ALE fails to offer minimum essential coverage to at least 95% of its FT employees for a month, and at least one FT employee receives a subsidy in the Public Health Insurance Marketplace (Marketplace). The "no offer" penalty calculation is:

  (The ALE's total number of FT employees – 30) × 4980H(a) penalty amount[3]

- The Section 4980H(b) penalty (the "inadequate offer" penalty) – This penalty is triggered when an ALE offers minimum essential coverage to at least 95% of its FT employees but fails to offer affordable and/or minimum value coverage to a FT employee who receives a subsidy in the Marketplace. The inadequate offer penalty is limited to the FT employees actually receiving subsidies.

The IRS announced the 2022 penalty amounts in its Revenue Procedure 2021-36. For comparison purposes, the 2021 and 2022 affordability safe harbor percentages and penalties are below.

Plan year beginning on or after	Section 4980H(a) Penalty	Section 4980H(b) Penalty	Affordability Safe Harbor %
January 1, 2021	$225.00/month $2,700/year	$338.33/month $4,060/year	9.83 %
January 1, 2022	$229.17/month $2,750/year	$343.33/month $4,120/year	9.61 %

Failure to Report Penalties

Revenue Procedure 2021-45 also includes small increases to the penalties for failing to timely file Forms 1094/1095 with the IRS and/or deliver Forms 1095 to required individuals ($290 per return if not filed by August 1, 2023).

[2] The offer must also include the full-time employee's natural and adopted children under age 26.

[3] If the ALE is a member of a group of closely related employers, the 30 FT employee exclusion does not independently apply to each member. Instead, each member receives a share of the total exclusion based on its proportion of FT employees relative to the entire group.

About the Authors

Andrea Sokolich, J.D., M.P.H. is a Compliance Consultant in the Employee Health & Benefits Compliance Center of Excellence for Marsh McLennan Agency.

Andie Schieler, J.D., CEBS is a Senior Compliance Consultant in the Employee Health & Benefits Compliance Center of Excellence for Marsh McLennan Agency.

The information contained herein is for general informational purposes only and does not constitute legal or tax advice regarding any specific situation. Any statements made are based solely on our experience as consultants. Marsh McLennan Agency LLC shall have no obligation to update this publication and shall have no liability to you or any other party arising out of this publication or any matter contained herein. The information provided in this alert is not intended to be, and shall not be construed to be, either the provision of legal advice or an offer to provide legal services, nor does it necessarily reflect the opinions of the agency, our lawyers or our clients. This is not legal advice. No client-lawyer relationship between you and our lawyers is or may be created by your use of this information. Rather, the content is intended as a general overview of the subject matter covered. This agency is not obligated to provide updates on the information presented herein. Those reading this alert are encouraged to seek direct counsel on legal questions. © 2021 Marsh McLennan Agency LLC. All Rights Reserved.