MARSH & McLENNAN AGENCY

REFORM UPDATE

Issue One Hundred Thirty-Two June 2017

June 21, 2017

UPDATES ON AFFORDABLE CARE ACT (ACA) PROVISIONS

The ACA is still the law of the land, even though Congress is working on replacement legislation. The government still needs to update the indexed provisions for certain aspects of the ACA. This *Reform Update* contains the latest on indexed provisions and Marketplace operations.

AFFORDABILITY PERCENTAGE

The IRS recently released Revenue Procedure 2017-36 including the indexed percentage for testing affordability under certain ACA provisions. For plan years beginning in 2018, that rate decreases to 9.56 percent. Marketplaces will use the indexed percentage to determine whether employer coverage is affordable based on household income, and whether an individual is eligible for premium subsidies. Employers will also use the increased percentage when they test for affordability based on any of the following safe harbors:

- Box 1 of the W-2
- Rate of pay
- Federal Poverty Level (FPL)

The updated rate will apply to any aspect of the reporting requirements that refer to affordability.

This Revenue Procedure also updates the applicable percentage table for aspects of the ACA that determine the amount of potential premium subsidies in the Marketplace. The process for determining potential premium tax credits was reviewed in our *Reform Update* at http://www.mcgrawwentworth.com/Reform_Update/2012/Reform_Update_47.pdf.

The updated Applicable Percentage Table is as follows:

Household Income Percentage of the FPL	Initial Percentage	Final Percentage
Less than 133%	2.01%	2.01%
At least 133% but less than 150%	3.02%	4.03%
At least 150% but less than 200%	4.03%	6.34%
At least 200% but less than 250%	6.34%	8.10%
At least 250% but less than 300%	8.10%	9.56%
At least 300% but less than 400%	9.56%	9.56%

MAXIMUM OUT-0F-POCKET LIMIT

The annual 2018 maximum out-of-pocket limits for cost sharing have increased to $7,350 for individual coverage and $14,700 for family coverage. The 2017 limits were $7,150 for individual coverage and $14,300 for family coverage.

SMALL BUSINESS HEALTH OPTIONS (SHOP)

The Department of Health and Human Services (DHHS) recently proposed discontinuing the SHOP in 2018. Small groups would be able to purchase SHOP health coverage directly from insurance carriers. DHHS indicated that not many small employers purchase coverage through the SHOP. It is estimated that SHOP covers fewer than 40,000 people in 33 states.

If the proposal becomes final, small employers could go to Healthcare.gov to determine eligibility for SHOP plans. The employer would then contact the insurance carrier directly to enroll employees for coverage. In addition, those that qualify can still access the Small Business Health Care Tax Credit through the SHOP.

PRODUCT DISCONTINUATION IN MARKETPLACE

The Centers for Consumer Information and Insurance Oversight (CCIIO) recently published a safe harbor as it relates to product discontinuation notices. A health insurance carrier that wishes to discontinue a product in the group or individual market must provide at least 90 calendar day notice prior to the discontinuation date. Due to the timing of certifying qualified health plans (QHPs) in the Marketplace in the last the three years, some carriers did not finalize product offerings until the start of open enrollment. This caused issues with carriers and the Marketplace trying to assist individuals in selecting alternative coverage options when products were discontinued.

Centers of Medicare & Medicaid Services (CMS) announced it will not take enforcement action against an insurance carrier that did not meet the 90-day notification when discontinuing a product if the carrier provides such notice consistent with the time period that applies to renewal notices. For non-grandfathered, non-transitional plans, the renewal must be provided before the first day of the next annual open enrollment period. For grandfathered or transitional plans, the renewal must be provided at least 60 days before the date of the policy's renewal.