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HHS & CMS LISTENS TO NCOIL CONCERNS ABOUT HEALTH SAVINGS ACCOUNTS, PROPOSES FAVORABLE HSA RULES FOR 2018

Manasquan, NJ - Earlier this year, at the request of NCOIL Officers, NCOIL CEO & former NJ Banking & Insurance Commissioner Tom Considine wrote to US Department of Health and Human Services Secretary Sylvia Burwell and Center for Medicare & Medicaid Services Acting Administrator Andy Slavitt about the adverse effects federal regulations will have on Health Savings Accounts (HSAs).

"NCOIL has worked to ensure we react when the federal government makes regulation that affect state insurance policy" said Sen. Travis Holdman, NCOIL President. "We appreciate that HHS and CMS is willing to engage in a frank dialogue to favorably resolve these issues."

Rules proposed by the Department of Health and Human Services and the Center for Medicare and Medicaid Services indicate that HHS and CMS listened to the NCOIL's request.

"I'm pleased that HHS and CMS has demonstrated the flexibility to listen to and agree with NCOIL's concerns about Health Savings Accounts." said Considine. "As stated in the letter to them, HSA's are an important tool to keep health care costs down."

"As the Assembly Committee on Insurance Chair and a member of the Committee on Health in New York we make laws to encourage our residents to engage in healthier activity," said Assemblyman Kevin Cahill, NCOIL Health, Long-Term Care and Retirement Committee Chair. "This is an important example of how the federal government listened to NCOIL member states and fixed an unnecessary complication for consumers in accessing affordable health care."

From the proposed regulations:

For 2018, we also propose a fourth standardized option at the bronze level of coverage that qualifies as a high deductible health plan (HDHP) under section 223 of the Code, eligible for use with a health savings account (HSA). HDHPs are an option valued by many consumers – enrollment in HDHPs across 2016 individual market FFE and SBE-FP QHPs constituted 9.2 percent of all FFE and SBE-FP QHP enrollment in 2016. Pursuant to the terms of the Code, the IRS releases the maximum annual limitation on cost sharing and minimum annual deductible for HDHPs annually in the spring, subsequent to the annual HHS notice of benefit and payment parameters rulemaking process.

Therefore, we propose that if any changes to the HDHP standardized option would be required to reflect differences between the HDHP standardized option finalized in the 2018 Payment Notice and the subsequently released maximum annual limitation on cost sharing and minimum annual deductible for HDHPs, HHS would publish those changes in guidance.

Accordingly, we propose to amend the definition of “standardized option” at §155.20 to provide for a plan to be considered a standardized option if it is: (1) a QHP offered for sale through an individual market Exchange with a standardized cost-sharing structure specified by HHS in rulemaking; or (2) an HDHP QHP offered for sale through an individual market Exchange with a standardized cost-sharing structure specified by HHS in guidance issued solely to modify the cost-sharing structure specified by HHS in rulemaking to the extent necessary to align with requirements to qualify as an HDHP under section 223 of the Code and meet HHS AV requirements.

In 2015, enrollment in HSA plans climbed 13% to almost 20 million, raising the total amount of assets in HSA accounts to over \$28 billion. Those numbers reflect the growing popularity of HSAs, which is the result of entrusting consumers to make decisions about their own health care and finances.

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