



## IRS Guidance Expands Preventive Care Under High Deductible Health Plans

July 25, 2019

Last week, the IRS issued Notice 2019-45 (the “Notice”), which expands the scope of preventive care a high deductible health plan (“HDHP”) may cover before the deductible is satisfied, while still allowing an eligible individual to contribute to a health savings account (“HSA”). The Notice applies to specified medical services and items that were previously considered treatment of chronic conditions like diabetes and asthma. By classifying those items and services as preventive care, an HDHP may cover them before the HDHP deductible is satisfied. The Notice is effective as of July 17, 2019.

### Background on HDHPs and HSAs

HDHPs require covered individuals to pay all medical costs, except for preventive care, until a certain deductible is met (minimum of \$1,350 for self-only coverage and \$2,700 for family coverage for 2019). Eligible individuals covered by an HDHP may contribute to an HSA, which may be funded by employer or employee contributions, or both. HSAs are tax advantaged because contributions are not taxed when made and distributions are not taxed when used to reimburse the individual for qualified medical care expenses.

### The Notice Moves Certain Services and Items Into Preventive Care Category

HDHPs may now cover certain medical services and items as preventive care. The Notice includes a list of 14 preventive care services and items that an HDHP may cover without being subject to the deductible, so long as they are used to treat the specified diagnosed condition. The table below provides a complete list of those services and items and the related conditions.

The Notice does not mandate that HDHPs cover any or all of the listed services and items. The HDHP sponsor may choose to cover none, some, or all prior to a participant satisfying the deductible. Even though the Notice is effective immediately, there is no immediate requirement for plan sponsors to implement the Notice’s allowable coverage of preventive services and items.

The list of services and items in the Notice is exhaustive. Although the IRS provided its criteria for selecting the listed services and items, the Notice specifically states that the scope of expanded care is limited to the listed items and not the broader class of services that may meet the criteria. The IRS will periodically review the list for addition or removal of services or items, but such review will occur only approximately every five to ten years.

<b>Preventive Care for Specified Conditions:</b>	<b>For Individuals Diagnosed With:</b>
Angiotensin converting enzyme (ACE) inhibitors	Congestive heart failure, diabetes, and/or coronary artery disease
Anti-resorptive therapy	Osteoporosis and/or osteopenia
Beta-blockers	Congestive heart failure; or coronary artery disease
Blood pressure monitor	Hypertension
Inhaled corticosteroids	Asthma
Insulin and other glucose-lowering agents	Diabetes
Retinopathy screening	Diabetes
Peak flow meter	Asthma
Glucometer	Diabetes
Hemoglobin A1c testing	Diabetes
International normalized ratio (INR) testing	Liver disease and/or bleeding disorders
Low-density lipoprotein (LDL) testing	Heart disease
Selective serotonin reuptake inhibitors (SSRIs)	Depression
Statins	Heart disease and/or diabetes

## Next Steps

Employers who sponsor an HDHP should consider whether to expand preventive coverage by addressing the following:

- The new preventive services, items or conditions the plan will cover before a deductible is satisfied.
- Review the plan definition and scope of preventive care benefits to determine if services and items listed in the Notice will automatically be covered.
- Whether plan premiums and deductible limits should be adjusted based on the expanded coverage of preventive services or items.
- Plan document amendments and an employee communication and education strategy prior to offering expanded preventive coverage.

In addition, employers will need to work with their HDHP vendors to determine whether changes can be made this year, or whether the vendors will need more time to implement any changes.

## Additional Information

If you have any questions regarding HDHPs or HSAs, or if you would like assistance in amending your plan documents and related employee communications to implement the Notice, please contact a member of our [Employee Benefits Practice Group](#). For more information concerning our employee benefits practice, please visit us at [www.KutakRock.com](http://www.KutakRock.com).

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