

2019 Health Plan Design Considerations

05.15.18

2019 HDHP and HSA Limits

Since many employers are working on their health plan designs for calendar year 2019 during the month of May, the Internal Revenue Service just issued the HDHP and HSA limits shown below for 2019.

HDHP Coverage Limits

	Self-Only	Family
Annual Deductible Limit	\$1,350	\$2,700
Annual Out of Pocket Maximum Limit	\$6,750	\$13,500

HSA Contribution Deduction Limits (other than catch-up contributions)

Self-Only	Family
\$3,500	\$7,000

It is highly unlikely that these limits will be altered as the limits were for 2018, unless there is new legislation passed to alter the calculation of the amounts.

Practical Implications of the Wellness Program

As employers plan their health and welfare benefits for 2019, the recent developments in the litigation on the EEOC's Genetic Information Nondiscrimination Act ("GINA") and Americans with Disabilities Act, as amended ("ADA") regulations which applied to employer sponsored wellness programs need to be put in plain English. The EEOC's GINA and ADA regulations limited the maximum wellness benefit generally to 30% of the employee only coverage cost for all types of wellness programs, instead of the 50% limit under the Affordable Care Act ("ACA") for health contingent wellness programs and the unlimited discount for participatory wellness programs under HIPAA as amended by the ACA. Last year the DC District Court issued an order that required the EEOC to meet certain deadlines in terms of addressing what the court saw as deficiencies in how they considered and developed those rules. The EEOC has told the court it will not meet the deadlines in the court's order for promulgation of a notice of proposed rulemaking to start the required regulatory process by the court's deadline. According to the original court order, if those deadlines for actions were not completed within the court's timetable for the order, the court is scheduled to vacate the EEOC's GINA and ADA regulation effective as of January 1, 2019. If the EEOC does not meet the required deadlines as it has indicated in its status reports to the court, and if there are no intervening litigation developments, that will mean that the District Court's order will be issued in final form and effective as of January 1, 2019 the only limits on wellness program rewards will be those under HIPAA as amended by the ACA. At this point, there has been no order that implements the vacating of the GINA and ADA regulations any earlier than the original date of January 1, 2019. *According to the most recent order, the judge has retained jurisdiction over this case and the vacating of the GINA and ADA wellness program regulations removing them from the regulations will occur on January 1, 2019, as long as there are no other litigation or regulatory developments. So now we wait and watch, and if there are no new developments, the EEOC's GINA and ADA regulations limiting all wellness program incentives will be vacated and will not apply as of January 1, 2019, and only the HIPAA limits as amended by the ACA for the health contingent wellness programs will apply as of January 1, 2019.*

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