



update

Public Sector Benefits Compliance News

June 4, 2015

Final Rule on Limited Wraparound Coverage Under the Affordable Care Act

The final rule on wraparound coverage under the Affordable Care Act¹ issued by the Departments of Treasury, Labor, and Health and Human Services (collectively, the “Departments” responsible for implementing the law) allows employers to provide limited benefits that supplement (or “wrap around”) coverage obtained through certain individual health insurance policies.² The final rule describes two kinds of limited wraparound benefits: those available only to part-time employees or pre-Medicare eligible retirees enrolled in individual health insurance policies (such as a plan available through a Marketplace³) and those that can be used to supplement multi-state plans offered through the public Marketplace.⁴ Such limited “wraparound” benefits are considered “excepted benefits,” which means they are not be subject to the Affordable Care Act’s group health plan mandates, such as the prohibition on annual dollar limits.

This *Update* discusses limited wraparound coverage. It concludes with a section on the [implications for employers](#).

Limited Wraparound Coverage Is a Pilot Project

Employers may only provide limited wraparound benefits under a pilot program, with a sunset date. The limited wraparound coverage must first be offered between January 1, 2016 and December 31, 2018,⁵ and must end on the later of the following dates:

- Three years after the date wraparound coverage is first offered; or
- When the last collective bargaining agreement (CBA) relating to the plan, if applicable, terminates after the date wraparound coverage is first offered (determined without regard to any CBA extension agreed to after the date wraparound coverage is first offered).



Health Compliance News:

- [Limited Wraparound Coverage Is a Pilot Project](#)
- [Requirements for any Limited Wraparound Coverage](#)
- [Specific Rules for Limited Wraparound Coverage for Part-Time Employees or Retirees](#)
- [Requirements for Limited Wraparound Coverage for Full-Time Employees](#)
- [Implications for Employers](#)

NEW! On June 25, 2018, the Centers for Medicare & Medicaid Services released a [form](#) that sponsors of limited wraparound coverage can use for the reporting that’s required in order for the coverage to qualify as an excepted benefit.

¹ The Affordable Care Act is the shorthand name for the Patient Protection and Affordable Care Act (PPACA), Public Law No. 111-48, as modified by the subsequently enacted Health Care and Education Reconciliation Act (HCERA), Public Law No. 111-152.

² The final rule was published in the [March 18, 2015 Federal Register](#).

³ “Marketplace” is the federal government’s term for what the Affordable Care Act refers to as an “Exchange.”

⁴ A multi-state plan is a special type of Marketplace plan that insurers offer under contract with the U.S. Office of Personnel Management (OPM).

⁵ This is one year later than the Departments had put forth in a proposed rule published last December, which gives plan sponsors more time to design and implement a limited wraparound benefit.

Requirements for any Limited Wraparound Coverage

Either type of limited wraparound benefits must meet the following requirements:

- It must provide “meaningful benefits” beyond coverage of participant cost sharing. The coverage cannot provide benefits only under a coordination-of-benefits provision, and cannot be an account-based reimbursement arrangement, such as a health reimbursement arrangement (HRA). It could provide coverage for health benefits that are not covered under the eligible individual insurance, such as non-formulary drugs.
- The annual cost of coverage per employee (and any covered dependents) may not exceed the greater of the maximum annual salary-reduction contribution toward a health flexible spending arrangement (FSA), which is \$2,550 for 2015 (indexed annually) or 15 percent of the cost of coverage under the “primary plan,” a term not defined in the final rule but which the Departments are expected to clarify.
- The coverage may not discriminate based on a health risk factor, may not impose any preexisting condition exclusion, and may not discriminate in favor of highly compensated individuals.
- Individuals eligible for limited wraparound coverage cannot be enrolled in a health FSA.

Specific Rules for Limited Wraparound Coverage for Part-Time Employees or Retirees

This type of limited wraparound coverage can only be offered to employees who are *not* full-time employees (and their dependents) or to pre-Medicare retirees (and their dependents). Full-time employees are those who are reasonably expected to work for one employer for at least an average of 30 hours per week. These rules do not affect Medicare-eligible retirees who are already permitted to purchase Medicare supplemental coverage policies.

Limited wraparound coverage for part-time employees or retirees must satisfy the following conditions:

- It must wrap around “eligible individual health insurance,” which is a non-grandfathered individual plan, such as one available through a Marketplace.
- For each year for which wraparound coverage is offered, an employer that sponsors a wraparound plan must offer affordable, minimum value coverage (*i.e.*, provides at least 60 percent actuarial value) to 95 percent of its full-time employees.
- The employer must simultaneously offer to wrap-eligible employees or retirees other group health coverage, not limited to excepted benefits. This other coverage should be designed so that it does not disqualify wrap-eligible employees from receiving a premium assistance tax credit if they would otherwise qualify for one when they buy Marketplace coverage.

Requirements for Limited Wraparound Coverage for Full-Time Employees

Somewhat different rules apply to plans that provide wrap benefits to full-time employees (or to part-time employees or retirees) enrolled in a multi-state plan. Certain requirements are specific to the multi-state wrap, including:

- The wrap benefit must be reviewed and approved by the United States Office of Personnel Management.
- The employer must have offered affordable, minimum value coverage to a substantial portion of its full-time employees in the plan year beginning in 2013 or

2014, and must meet certain requirements regarding the minimum contribution toward coverage for the duration of the pilot program.

The requirement to offer *other* group coverage (discussed in the previous section) does not apply.

Implications for Employers

Receiving wraparound coverage would not disqualify an employee or retiree from enrolling in a Marketplace plan and receiving a premium assistance tax credit. As a result, the limited wraparound benefit opens a new possibility for employers with low-wage part-time or seasonal workers who cannot afford to extend unlimited existing group health plan coverage to this subset of their workforce. The economic ramifications of such a design would have to be carefully considered. Employers considering the multi-state wrap would also need to consider their potential exposure to the employer shared responsibility penalty. This is because this wraparound coverage could be offered to full-time employees, and their receipt of a premium assistance tax credit could trigger the employer penalty.

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Segal Consulting

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