Proposed Changes Regarding Prescription Drug Manufacturer Coupons and Cost-Sharing Requirements

Background

The annual Notice of Benefit and Payment Parameters (the Notice) in part defines the annual limitation on cost sharing for all medical policies. The 2020 Notice stated that amounts paid using drug manufacturers’ financial aid (e.g., coupons, discounts, etc.) for prescription brand drugs that have an available and medically appropriate generic equivalent are not required to be counted toward the annual limitation on cost sharing.

After receiving comments from many stakeholders, the government acknowledged that the 2020 Notice conflicted with IRS Notice 2004-50 which addresses rules governing High Deductible Health Plans (HDHPs) used in connections with Health Savings Accounts. Specifically, Notice 2004-50 requires an HDHP to disregard all drug manufacturers’ financial aid when determining if the deductible for an HDHP has been satisfied. Effectively, Notice 2004-50 only allows amounts actually paid by an individual to be taken into account for satisfying the HDHP deductible.

To address this issue, the government issued FAQ Part 40 which said the conflict would be addressed with the issuance of the 2021 Notice. The government issued the proposed 2021 Notice last Friday.

In that Notice, the government stated plans and issuers have the option of whether to include or exclude drug manufacturers financial aid from the annual limitation on cost sharing, regardless of whether a generic equivalent is available. Further, the government is proposing to interpret the definition of cost-sharing to exclude expenditures covered by drug manufacturers financial aid.

What does this mean to your plan?

Excluding from the annual limitation on cost sharing the amounts of drug manufacturers’ financial aid for brand-name drugs when medically appropriate generic equivalents are available is an incentive for individuals to use generic drugs.

Until the Notice is finalized, employer plans can continue to use their current cost share methodology regarding drug manufacturers’ financial assistance to members.

Please contact your Oswald client team representative for further information.
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