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**Date: December 12, 2022**

**Subject: Premium Adjustment Percentage, Maximum Annual Limitation on Cost Sharing, Reduced Maximum Annual Limitation on Cost Sharing, and Required Contribution Percentage for the 2024 Benefit Year**

**I. Purpose**

As finalized in the HHS Notice of Benefit and Payment Parameters for 2022 and Pharmacy Benefit Manager Standards (2022 Payment Notice Part 2),<sup>1</sup> the Department of Health and Human Services (HHS) publishes the premium adjustment percentage, maximum annual limitation on cost sharing, reduced maximum annual limitation on cost sharing, and required contribution percentage (payment parameters) in guidance by January of the year preceding the applicable benefit year using the most recent National Health Expenditure Accounts (NHEA) income and premium data that is available at the time of publication. HHS is issuing this guidance to provide these payment parameters for the 2024 benefit year.

**II. Background**

Section 1302(c)(4) of the Patient Protection and Affordable Care Act (ACA) directs the Secretary of HHS to determine an annual premium adjustment percentage, a measure of premium growth that is used to set three other parameters detailed in the ACA: (1) the maximum annual limitation on cost sharing (defined at 45 CFR 156.130(a)); (2) the required contribution percentage used to determine eligibility for certain exemptions under section 5000A of the Internal Revenue Code (the Code) (defined at 45 CFR 155.605(d)(2)); and (3) the employer shared responsibility payment amounts under section 4980H(a) and (b) of the Code (see section 4980H(c)(5) of the Code).

Section 1302(c)(4) of the ACA and 45 CFR 156.130(e) provide that the premium adjustment percentage is the percentage (if any) by which the average per capita premium for health insurance coverage for the preceding calendar year exceeds such average per capita premium for health insurance for 2013.

In the 2022 Payment Notice Part 2, HHS established that the average per capita premium will be based on NHEA estimates of employer-sponsored insurance (ESI) premiums and finalized that, beginning with the 2023 benefit year, HHS would release the payment parameters in guidance by January of the year preceding the applicable benefit year.<sup>2</sup> HHS also established that the premium adjustment percentage, maximum annual limitation on cost sharing, reduced maximum annual limitation on cost sharing, and required contribution percentage would be calculated using the most recent NHEA income and premium data that is available at the time these values are published in guidance or, if applicable, rulemaking.

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<sup>1</sup> 86 FR 24140 (May 5, 2021).

<sup>2</sup> We note that if HHS proposes changes to the methodology used to calculate these values for a future benefit year, we would publish the annual premium adjustment percentage in rulemaking and then would resume publication in guidance for subsequent benefit years when no methodological changes are proposed.

For the 2024 benefit year, HHS is not proposing changes to the methodology to calculate the premium adjustment percentage or related parameters. As such, we are releasing these parameters in this guidance.

### **III. NHEA Data Years**

For the calculation of the 2024 benefit year payment parameters, we are using the NHEA Projections 2021-2030.<sup>3</sup> This data source reflects the most recent projections available and was released on March 28, 2022.

### **IV. Premium Adjustment Percentage for 2024**

Using the NHEA Projections 2021-2030, the premium adjustment percentage for 2024 is the percentage (if any) by which the NHEA Projections 2021-2030 value for per enrollee ESI premiums for 2023 (\$7,292) exceeds the NHEA Projections 2021-2030 value for per enrollee ESI premiums for 2013 (\$4,894) carried out to ten significant digits. Using this formula, the premium adjustment percentage for the 2024 benefit year is 1.4899877401 ( $\$7,292/\$4,894$ ), which represents an increase in ESI premiums of approximately 48.9 percent over the period from 2013 to 2023. This premium adjustment percentage will be used to index the maximum annual limitation on cost sharing and the required contribution percentage used to determine eligibility for certain exemptions under section 5000A of the Code. It will also be used to index the employer shared responsibility payment amounts under section 4980H(a) and (b) of the Code.

### **V. Maximum Annual Limitation on Cost Sharing for 2024**

Under 45 CFR 156.130(a)(2), for the 2024 calendar year, cost sharing for self-only coverage may not exceed the dollar limit for calendar year 2014 increased by an amount equal to the product of that amount and the premium adjustment percentage for 2024. For other than self-only coverage, the limit is twice the dollar limit for self-only coverage. Under § 156.130(d), these amounts must be rounded down to the next lowest multiple of \$50. Using the premium adjustment percentage for 2024 of 1.4899877401, and the 2014 maximum annual limitation on cost sharing of \$6,350 for self-only coverage, which was published by the Internal Revenue Service on May 2, 2013,<sup>4</sup> the 2024 maximum annual limitation on cost sharing is \$9,450 for self-only coverage and \$18,900 for other than self-only coverage. This represents an approximately 3.8 percent increase above the 2023 parameters of \$9,100 for self-only coverage and \$18,200 for other than self-only coverage.

### **VI. Reduced Maximum Annual Limitation on Cost Sharing for 2024**

The reduced maximum annual limitations on cost sharing for cost-sharing plan variations are determined by the methodology we established beginning with the 2014 benefit year. In the 2014 Payment Notice,<sup>5</sup> we established standards related to the provision of these cost-sharing reductions (CSRs). Specifically, in 45 CFR part 156, subpart E, we specified that qualified health plan (QHP) issuers must provide CSRs by developing plan variations, which are separate cost-sharing structures for each eligibility category that change how the cost sharing required under the QHP is to be shared between the enrollee and the federal government. At 45 CFR 156.420(a), we detailed the structure of these plan variations and specified that QHP issuers must ensure that each silver plan variation has an annual limitation on cost sharing no greater than the applicable reduced maximum annual limitation on cost sharing specified in the annual HHS guidance or HHS notice of benefit and payment parameters. Although the amount of the reduction in the maximum annual limitation on cost sharing is specified in section 1402(c)(1)(A) of the ACA, section 1402(c)(1)(B)(ii) of the ACA states that the Secretary may adjust the cost sharing limits to ensure that the

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<sup>3</sup> Available at: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected>.

<sup>4</sup> See Revenue Procedure 2013-25, 2013-21 IRB 1110. <http://www.irs.gov/pub/irs-drop/rp-13-25.pdf>.

<sup>5</sup> Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2014 and Amendments to the HHS Notice of Benefit and Payment Parameters for 2014; 78 FR 15409 (Mar. 11, 2013).

resulting limits do not cause the actuarial value (AV) of the health plans to exceed the levels specified in section 1402(c)(1)(B)(i) of the ACA (that is, 70 percent, 73 percent, 87 percent, or 94 percent, depending on the income of the enrollee).

We note that for the 2024 benefit year, as described in 45 CFR 156.135(d), states are permitted to request HHS approval for state-specific datasets for use as the standard population to calculate AV. No state submitted a dataset by the September 1, 2022 deadline.

As indicated in Table 1, we are finalizing the values of the reduced maximum annual limitation on cost sharing at \$3,150 for enrollees with household income greater than or equal to 100 percent of the federal poverty level (FPL) and less than or equal to 150 percent FPL, \$3,150 for enrollees with household income greater than 150 percent FPL and less than or equal to 200 percent FPL, and \$7,550 for enrollees with household income greater than 200 and less than or equal to 250 percent FPL, as calculated using the 2024 premium adjustment percentage and maximum annual limitation on cost sharing.

**TABLE 1: Reductions in Maximum Annual Limitation on Cost Sharing for 2024**

Eligibility Category	Reduced Maximum Annual Limitation on Cost Sharing for Self-only Coverage for 2024	Reduced Maximum Annual Limitation on Cost Sharing for Other than Self-only Coverage for 2024
Individuals eligible for CSRs under § 155.305(g)(2)(i) (household income greater than or equal to 100 and less than or equal to 150 percent of FPL)	\$3,150	\$6,300
Individuals eligible for CSRs under § 155.305(g)(2)(ii) (household income greater than 150 and less than or equal to 200 percent of FPL)	\$3,150	\$6,300
Individuals eligible for CSRs under § 155.305(g)(2)(iii) (household income greater than 200 and less than or equal to 250 percent of FPL)	\$7,550	\$15,100

To confirm consistency with past results of the analysis for the reduced maximum annual limitation on cost sharing, we tested the updated reductions to the 2024 maximum annual limitation for cost sharing (\$9,450) that we are publishing in this guidance on the AV levels of silver level QHPs with varying cost sharing structures. For 2024, the test QHPs included a preferred provider organization (PPO) with typical cost sharing structure (\$9,450 annual limitation on cost sharing, \$3,500 deductible, and 20 percent in-network coinsurance rate); a PPO with a lower annual limitation on cost sharing (\$9,150 annual limitation on cost sharing, \$3,450 deductible, and 20 percent in-network coinsurance rate); and a health maintenance organization (HMO) (\$9,450 annual limitation on cost sharing, \$3,800 deductible, 40 percent in-network coinsurance rate, and the following services with copayments that are not subject to the deductible or coinsurance: \$1,500 inpatient stay per day, \$800 emergency department visit, \$30 primary care office visit, and \$80 specialist office visit).

We then entered these test plans into a draft version of the 2024 benefit year AV Calculator and observed how the reductions in the maximum annual limitation on cost sharing specified in the ACA affected the AVs of the plans. We found that the reduction in the maximum annual limitation on cost sharing specified in the ACA for enrollees with a household income greater than or equal to 100 percent FPL and less than or equal to 150 percent of FPL (2/3 reduction in the maximum annual limitation on cost sharing), and

greater than 150 percent FPL and less than or equal to 200 percent of FPL (2/3 reduction), would not cause the AV of any of the model QHPs to exceed the statutorily specified AV levels.

As with prior years, we continue to find that the reduction in the maximum annual limitation on cost sharing specified in the ACA for enrollees with a household income greater than 200 percent FPL and less than or equal to 250 percent of FPL (1/2 reduction) would cause the AVs of two of the three test QHPs to exceed the specified AV level of 73 percent. Furthermore, as with prior years, for individuals with household incomes greater than 250 and less than or equal to 400 percent of FPL, without any change in other forms of cost sharing, the reductions in the maximum annual limitation on cost sharing specified in the ACA would cause an increase in AV that exceeds the maximum 70 percent level set forth in the statute.

Therefore, we continue to reduce the maximum annual limitation on cost sharing by 2/3 for enrollees with a household income greater than or equal to 100 percent FPL and less than or equal to 200 percent of FPL, 1/5 for enrollees with a household income greater than 200 percent FPL and less than or equal to 250 percent of FPL, and no reduction for individuals with household incomes greater than 250 percent FPL and less than or equal to 400 percent of FPL for the 2024 benefit year. The resulting final 2024 reduced maximum annual limitations on cost sharing are displayed in Table 1 above.

## **VII. Required Contribution Percentage for 2024**

HHS calculates the required contribution percentage for each benefit year using the most recent projections and estimates of premium growth and income growth over the period from 2013 to the preceding calendar year. Accordingly, we are establishing the required contribution percentage for the 2024 benefit year, calculated using income and premium growth data for the 2013 and 2023 calendar years.

Section 5000A of the Code imposes an individual shared responsibility payment on non-exempt individuals who do not have minimum essential coverage (MEC) for each month. Under 45 CFR 155.605(d)(2), an individual is allowed a coverage exemption (the affordability exemption) for months in which the amount the individual would pay for MEC exceeds a percentage, called the required contribution percentage, of the individual's household income. Although the Tax Cuts and Jobs Act<sup>6</sup> reduced the individual shared responsibility payment to \$0 for months beginning after December 31, 2018, the required contribution percentage is still used to determine whether individuals age 30 and above qualify for an affordability exemption that would enable them to enroll in catastrophic coverage under 45 CFR 155.305(h).

The initial 2014 required contribution percentage under section 5000A of the Code was 8 percent. For plan years after 2014, section 5000A(e)(1)(D) of the Code and Treasury regulations at 26 CFR 1.5000A-3(e)(2)(ii) provide that the required contribution percentage is the percentage determined by the Secretary of HHS that reflects the excess of the rate of premium growth between the preceding calendar year and 2013, over the rate of income growth for that period. The excess of the rate of premium growth over the rate of income growth is also used for determining the applicable percentage in section 36B(b)(3)(A)<sup>7</sup> of the Code and the required contribution percentage in section 36B(c)(2)(C) of the Code.

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<sup>6</sup> Pub. L. 115-97 (Dec. 22, 2017).

<sup>7</sup> Section 36B(b)(3)(A)(ii) of the Code generally provides that the applicable percentages are to be adjusted after 2014 to reflect the excess of the rate of premium growth for the preceding year over the rate of income growth for the preceding year. The American Rescue Plan Act of 2021 (Pub. L. 117-2 (Dec. 27, 2020)) amended the Code to temporarily suspend indexing of the applicable percentage table in section 36B(b)(3)(A) for the 2021 and 2022 tax years, which was extended through the 2025 tax year by the Inflation Reduction Act of 2022 (Pub. L. 117-169 (Aug. 16, 2022)).

As the measure of income growth for a calendar year, we established in the 2017 Payment Notice<sup>8</sup> that we would use NHEA projections of per capita personal income (PI). The rate of income growth for 2024 is the percentage (if any) by which the NHEA Projections 2021–2030 value for per capita PI for the preceding calendar year (\$67,240 for 2023) exceeds the NHEA Projections 2021–2030 value for per capita PI for 2013 (\$44,954), carried out to ten significant digits. The rate of income growth from 2013 to 2023 is therefore  $1.4957512124$  ( $67,240/44,954$ ). Using the 2024 premium adjustment percentage established in this guidance, the excess of the rate of premium growth over the rate of income growth for 2013 to 2023 is  $1.4899877401 \div 1.4957512124$ , or  $0.9961467708$ . This results in the 2024 required contribution percentage under section 5000A of the Code of  $8.00 \times 0.9961467708$  or 7.97 percent, when rounded to the nearest one-hundredth of one percent, a decrease of approximately 0.20 percentage points from 2022 (7.97 percent-8.17 percent).

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<sup>8</sup> Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2017, 81 FR 12203 (Mar. 8, 2016).

**Table 2: Payment Parameters for the 2024 Benefit Year**

<b>Area</b>	<b>Metric</b>	<b>Value</b>
Premium Adjustment Percentage	NHEA Projections 2021-2030 value for per enrollee ESI premiums for 2013	\$4,894
	NHEA Projections 2021-2030 value for per enrollee ESI premiums for 2023	\$7,292
	2024 Premium Adjustment Percentage	1.4899877401
Required Contribution	NHEA Projections 2021-2030 value for of per capita personal income for 2013	\$44,954
	NHEA Projections 2021-2030 value for of per capita personal income for 2023	\$67,240
	Income Growth	1.4957512124
	Premium Growth over Income Growth Index	0.9961467708
	2024 Required Contribution Percentage	7.97%
Maximum Annual Limitation on Cost Sharing – Self Only <sup>9</sup>	2024 Maximum Annual Limitation on Cost Sharing	\$9,450
	2024 Reduced Maximum Annual Limitation on Cost Sharing – household income greater than or equal to 100% and less than or equal to 150% FPL	\$3,150
	2024 Reduced Maximum Annual Limitation on Cost Sharing – household income greater than 150% and less than or equal to 200% FPL	\$3,150
	2024 Reduced Maximum Annual Limitation on Cost Sharing – household income greater than 200% and less than or equal to 250% FPL	\$7,550

*Note:* NHEA Data Available as of March 28, 2022.<sup>10</sup>

<sup>9</sup> The maximum annual limitation on cost sharing for other than self-only coverage is twice the dollar limit for self-only coverage. See 45 CFR 156.130(a)(2)(ii).

<sup>10</sup> For the calculation of the 2023 benefit year premium adjustment percentage, maximum annual limitation on cost sharing, reduced maximum annual limitation on cost sharing, and required contribution percentage, we are using the NHEA Projections 2021-2030, which are the most recent projections that have been released. Available at: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected>.