



HEALTH CARE REFORM – SPECIAL EDITION

Minimum Value Calculator and Final Regulations

LEGISLATIVE BRIEF

March 14, 2013

Overview

In order to avoid a penalty under the Employer Shared Responsibility provisions of the Affordable Care Act (ACA) large employers must offer their full-time employees (and their dependents) health benefits that meet specific requirements for “affordability” and “minimum value.”

Affordability: Coverage is “affordable” if no employee is required to pay more than 9.5% of his/her “household income” for self-only coverage under the employer’s lowest-cost option that provides minimum value. Proposed regulations provide three “safe harbors” for Affordability: W-2 income, Rate of pay as of the first day of the plan year (130 x hourly rate of pay), or 100% Federal Poverty Line for an individual.

Minimum Value: Coverage meets “minimum value” requirements if the plan pays at least 60% of the total cost of allowed benefits under the plan. This means that the employee pays not more than 40% of the actuarial value of benefits under the plan —via deductibles, coinsurance, copayments and other out-of-pocket amounts. To determine if a plan provides minimum value, the plan sponsor can use one of the three methods outlined below (or simply request a statement of actuarial value from the insurance company, which the insurer would determine by using one of the three methods below). Based on statements by HHS in the preamble to the proposed regulations on Essential Health Benefits and Actuarial Value, most group health plans currently meet the 60% actuarial value requirement. An example of an employer plan that might not meet the 60% requirement is a “mini-med” or catastrophic plan.

[Final Rule and Minimum Value Calculator](#)

On February 25, 2013 a [final rule](#) on essential health benefits (EHBs) was issued. The rule outlines the three approaches proposed in earlier guidance ([Notice 2012-31](#) issued May 2012) for determining minimum value. In connection with the final rule, HHS also released its [Minimum Value Calculator](#), or MV Calculator, and an [MV Calculator Methodology](#) to help employers use the calculator.

[Determining Minimum Value](#)

A plan fails to provide minimum value if the plan's share of total allowed costs of benefits provided under the plan is less than 60 percent of those costs. An employer may use one of the following methods to determine whether one of its health plans meets minimum value.

Option One: Calculator

- HHS has released an [MV Calculator](#) that permits an employer to enter information about its health plan's benefits, coverage of services and cost-sharing terms to determine whether the plan provides minimum value. HHS also released an [MV Calculator Methodology](#), which provides a detailed description of the data underlying the MV Calculator and its methodology.
- According to HHS, the calculator is available for "informal external testing." Users of the MV Calculator are encouraged to submit any technical issues or operational concerns to HHS and, if necessary, HHS will release a revised version of the MV calculator.

Option Two: Checklists

- HHS and the IRS have indicated that they will provide an array of design-based safe harbors in the form of checklists that employers can use to compare to their plans' coverage. If a plan's terms are consistent with or more generous than any one of the safe harbor checklists, the plan would be treated as providing minimum value. This method would not involve calculations, and could be completed without an actuary.
- Each safe harbor checklist would describe the cost-sharing attributes of the four core categories of benefits and services: physician and mid-level practitioner care, hospital and emergency room services, pharmacy benefits, and laboratory and imaging services. HHS and the IRS have not yet issued these checklists.

Option Three: Actuarial Certification

- An employer-sponsored plan may seek certification by an actuary to determine the plan's minimum value if the plan contains nonstandard features that preclude the use of the MV Calculator and safe harbor checklists. Nonstandard features would include quantitative limits (for example, limits on covered hospital days or physician visits) on any of the four core categories of benefits and services.

If a plan uses the MV Calculator and offers an essential health benefit (EHB) outside of the parameters of the MV Calculator, the plan may ask an actuary to determine the value of the benefit and add it to the result derived from the MV Calculator to reflect that value.

Also, to determine minimum value, employer-sponsored health plans may account for any benefits covered by the employer that are also covered in any one of the EHB-benchmark plan options in any state.

[Final Rule On HSA And HRA Contributions](#)

The final rule allows employer contributions to a health savings account (HSA) to be taken into account when determining a health plan's minimum value.

The final rule also addresses HRAs and provides that amounts newly made available under an *integrated* health reimbursement arrangement (HRA) that may be used *only for cost-sharing* are also taken into account in determining minimum value. HHS is still considering whether or not *other* types of integrated HRAs should be included in the minimum value calculation, and may issue additional guidance on this issue. HHS did not provide guidance on the definition of “integrated” or the phrase “used only for cost-sharing,” although more information on these terms would be helpful.

Copyright © 2013 Leavitt Benefits • All Rights Reserved. Reprint with permission only.
This legislative update is published as an information source for our clients and colleagues.
It is general in its nature and is no substitute for legal advice or opinion in any particular case.

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication, unless expressly stated otherwise, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.