

From: Jason Weinland <JWeinland@tfggroupbenefits.com>
Sent: Monday, August 10, 2015 10:57 AM
To: Notice Comments
Cc: Jason Weinland
Subject: Notice 2015-52 and 2015-16

Although I have never commented on proposed regulations, I feel compelled to comment on the proposed regulations as they apply to the Excise Tax on group health plans in 2018.

After reviewing Notice 2015-52 and 2015-16, my concern is that there is no consideration for group health plans with inherently poor medical claim risk. From what I understand, the objective of the 'Cadillac tax' is to tax GHPs that offer rich benefits, which is understandable.

However, the cost threshold of \$10,200 for individual coverage and \$27,500 for family should be applied to an *actuarial value of the benefits*, not the actual cost of the plan. There is a distinct and profound difference and the only provision of the Notice that I reviewed that could accommodate this issue is the "Age and Gender Adjustments."

An example highlights this issue:

I am the consultant for a Grandfathered employer plan that has a \$5,000 annual deductible, the plan then pays 100% of medical expenses. However, the plan does not cover prescription drugs. The employer has created an integrated HRA and funds this HRA in the amount of \$5,000 per year, which the employee may utilize for Rx expenses (the HRA may be utilized for other qualified expenses in addition to medical and Rx expenses).

Therefore, the medical plan in itself in no way can be considered a 'rich' plan. As we apply the Past Cost Method to project plan cost for upcoming years, the cost of this employer's group plan nearly exceeds the 2018 cost thresholds in the current 2015 Plan Year. And that cost calculation excludes the HRA contributions. Once we include the HRA contributions, the employer's plan exceeds the stated taxable thresholds.

Bottom line: it would be prudent to review applying the cost thresholds to the value of the benefits, NOT the actual plan cost, which as described in the Notice, is determined on a self-insured plan by totaling the insurance, *claims* and administrative costs.

Thank you for your consideration of this comment.

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