

NOVEMBER 2024

Employer Insights



A Moreton & Company Human Resource and Employee Benefits Compliance Newsletter.

New Notice Requirement In 2025: Fixed Indemnity Coverage

Employers offering fixed indemnity coverage must comply with a new notice requirement for plan years beginning on or after Jan. 1, 2025. The new notice is designed to explain the limitations of fixed indemnity coverage and help prevent employees from mistakenly selecting such coverage as an alternative to or replacement for traditional health coverage.

Employers with fixed indemnity policies should ensure that enrollment, application and marketing materials for the 2025 plan year include the required notice.

Fixed Indemnity Coverage

Fixed indemnity coverage is a type of excepted benefit not subject to certain key Affordable Care Act (ACA) reforms. The primary purpose of this type of coverage is to provide income replacement benefits rather than comprehensive health coverage. In general, fixed indemnity coverage pays a fixed dollar amount per day (or per other period) following the occurrence of a health-related event, such as a period of hospitalization or illness, subject to the policy's terms. Fixed indemnity benefit payments are made at a predetermined level, regardless of the amount of health care costs incurred (for example, \$100 per day of hospitalization).

Traditionally, benefits under fixed indemnity coverage are paid directly to a policyholder rather than a health care provider or facility. The policyholder has discretion over how to use such benefits—including using the payment to cover nonmedical expenses, such as child care or transportation—that may or may not be related to the event that precipitated the payment.

New Notice Requirement

On April 3, 2024, the U.S. Departments of Labor, Health and Human Services, and the Treasury issued a final rule on certain types of health coverage that are not subject to the ACA's consumer protections, including fixed indemnity coverage.

Effective for plan years beginning on or after Jan. 1, 2025, the final rule requires a consumer notice to be provided when offering fixed indemnity excepted benefits coverage in the group market to ensure that consumers can distinguish between this coverage and traditional health coverage. This notice requirement applies to both new and existing fixed indemnity coverage.

The new notice must be prominently displayed in at least 14-point font on the first page of any marketing, application or enrollment materials provided to participants at or before the time they are given the opportunity to enroll in the coverage.

The notice is prominently displayed if it is easily noticeable to a typical consumer within the context of the page (either paper or electronic) on which it is displayed. This includes using a font color that contrasts with the background of the document, ensuring the notice is not obscured by any other written or graphic content on the page, and, when displayed on a website, ensuring the notice is visible without requiring the viewer to click on a link to view the notice.

The following is the required text for the notice:

IMPORTANT: This is a fixed indemnity policy, NOT health insurance

This fixed indemnity policy may pay you a limited dollar amount if you're sick or hospitalized. You're still responsible for paying the cost of your care.

- The payment you get isn't based on the size of your medical bill.
- There might be a limit on how much this policy will pay each year.
- This policy isn't a substitute for comprehensive health insurance.
- Since this policy isn't health insurance, it doesn't have to include most Federal consumer protections that apply to health insurance.

Looking for comprehensive health insurance?

- Visit [HealthCare.gov](https://www.healthcare.gov) or call 1-800-318-2596 (TTY: 1-855-889-4325) to find health coverage options.
- To find out if you can get health insurance through your job, or a family member's job, contact the employer.

Questions about this policy?

- For questions or complaints about this policy, contact your State Department of Insurance. Find their number on the National Association of Insurance Commissioners' website ([naic.org](https://www.naic.org)) under "Insurance Departments."
- If you have this policy through your job, or a family member's job, contact the employer.



Rethinking Performance Feedback: The Power of Frequent Check-ins

Year-end is not only the time of over-indulgence and over-spending—often, it is the time of overlooking and underestimating the power of employee feedback. It is no secret that employees and employers alike have reservations about annual performance reviews. Some employees view them as a waste of time, and many employers find it difficult to argue against that. While it is not always practical or desirable to replace the annual review, many companies have discovered the value of augmenting them with frequent check-ins.

How Feedback Has Evolved

The concept of an annual performance review is based largely on the merit system adopted by post-war corporate America—a system that arguably has not evolved to meet the needs of modern business structure or the changing attitudes of younger workers.

The idea of strict, inflexible annual assessments of performance becomes especially problematic with tightening labor markets and employees' desire for more relevant and timely feedback. Annual reviews, while not totally without value, traditionally have held employees to quantitative standards and do not assess granular performance or incorporate all-important coaching opportunities. That is where frequent check-ins come in into play.

What is a Frequent Check-in?

Think of frequent check-ins as microscopic evaluations. In this process, managers evaluate employee performance periodically throughout the year, not just at its end. Managers check in on employee performance as it happens, instead of giving a rating possibly many months later.

Employees can, and should, still set attainable goals for themselves each year related to their performance, but evaluating that growth annually may do them a disservice. Frequent check-ins (whether quarterly, monthly, or even biweekly) allow employers the chance to nip any emerging issues in the bud and let employees receive coaching when it is relevant. Moreover, checking in with an employee more frequently can build a stronger rapport with supervisors while strengthening employee engagement and company culture.

Implement With Ease

Since frequent check-ins are essentially periodic meetings tailored to employee performance, implementation is minimal. To get started, employees (with supervisor assistance) should first develop goals for themselves for the year. It could be related to performance or some other aspect that is important to your company, like growing a particular skill. Next, supervisors should schedule individual meetings at set intervals throughout the year to check in on the progress of the goals. The meetings are also an opportunity for employees to receive feedback in any areas where they've fallen short, like not achieving a goal milestone on time.

Frequent check-ins can be powerful tools to improve employee growth and performance. These check-ins, which are often paired with a final annual review, show employees that management cares enough about their development to give them time to discuss it throughout the year.

Think about it: employees spend around 260 days each year at work. What could be more impactful to their development and sense of self-worth than spending more than just one day each year to take an interest in their success and well-being?



New IRS Guidance Treats Condoms As Medical Expense and Expands Preventive Care Benefits List For HDHP's

The IRS has issued two notices with guidance on medical expense issues for health FSAs, HRAs, HSAs, and HDHPs. Here are highlights of the guidance:

IRS Notice 2024-71

This notice announces a safe harbor under which the IRS will treat amounts paid for condoms as amounts paid for medical care under Code S 213(d). Therefore, these amounts can be paid or reimbursed under a health FSA, HRA, HSA, or Archer MSA.

IRS Notice 2024-75

This notice provides guidance regarding the preventive care benefits described below that can be provided by an HDHP without a deductible or with a deductible below the HDHP minimum deductible, without affecting HSA eligibility. Note that pre-deductible coverage is allowed, but not required.

- **Contraceptives:**

The notice expands the list of preventive care benefits that can be covered by an HDHP before the minimum deductible is met to include over-the-counter (OTC) oral contraceptives (including emergency contraceptives) and male condoms, effective for plan years beginning on or after December 30, 2022.

- **Breast Cancer Screenings:**

HDHPs may cover breast cancer screenings other than mammograms (e.g., MRIs or ultrasounds) before the HDHP minimum deductible is met.

- **Continuous Glucose Monitors:**

HDHPs can generally cover continuous glucose monitors pre-deductible for individuals diagnosed with diabetes.

- **Insulin:**

HDHPs may provide benefits for certain insulin products, including any devices used to administer or deliver the products, before the HDHP minimum deductible is met. This is the case regardless of whether the product is prescribed to treat an individual with diabetes or to prevent its exacerbation or the development of a secondary condition. This portion of the guidance is effective for plan years beginning after December 31, 2022.

Health FSA, HRA, and HDHP administrators will want to take note of the guidance and clarifications, which will be welcomed by participants, HSA holders, and other stakeholders. Keep in mind that plan or operational changes made as a result of the guidance may require plan amendments and changes to summary plan descriptions or other communications to participants.



For more information about Moreton & Company's HR Advisory Services or benefits compliance, please contact Kevin Mansfield at kmansfield@moreton.com or Carolyn Cox at ccox@moreton.com, respectively.

© 2024 Moreton & Company. This newsletter is intended to inform recipients about industry developments and best practices. It does not constitute the rendering of legal advice or recommendations and is provided for your general information only. If you need legal advice upon which you can rely, you must seek an opinion from your attorney.

To view more Moreton & Company newsletters, visit www.moreton.com/news-events/