Published May 22, 2025

From Capitol Hill to the Workplace: May Health Policy Updates

It's been a busy few weeks on Capitol Hill, with significant developments that could reshape the landscape for employer-sponsored health plans. From a sweeping prescription drug pricing executive order to major expansions in Health Savings Accounts (HSA) eligibility and a key update on mental health parity enforcement, policymakers are advancing changes that demand employer attention. Here's what you need to know.

Executive Order on Prescription Drugs

President Trump issued an additional executive order, "Delivering Most-Favored-Nation (MFN) Prescription Drug Pricing to American Patients" aimed at reducing the prices of prescription drugs for Americans. The order looks to implement the most-favored-nation policy meaning Americans would pay prices equal to or lower than those charged in other industrialized nations.

What is included in the order:

- **Implement MFN pricing:** Directs HHS to set price targets and begin negotiations with drug manufacturers to achieve MFN pricing. In cases where voluntary action is not taken, more formal rulemaking may enforce MFN pricing and the FTC may investigate anti-competitive practices.
- **Address global prices:** Directs the Secretary of Commerce and United States Trade Representative to end "global freeloading" by which other nations receive steep discounts for drugs at the expense of Americans.
    - President Trump argues that Americans have been forced to subsidize the global pharmaceutical market to make up for low-cost prescription drugs in other countries.
- **Direct-to-consumer sales:** Establish a mechanism so that Americans can buy drugs directly from manufacturers or from foreign pharmacies at lower prices.
    - This section seems to take aim at the PBM industry which President Trump has also criticized for increasing the price of prescription drugs in the U.S.

340B Implications: While 340B is not directly mentioned in the executive order, the price hospitals and other 340B entities purchase drugs at is tied to Medicaid rebates. If MFN was adopted, 340B entities would purchasing drugs at even larger discounts—potentially increasing the cost employers and working families pay. For more on this topic, see Shawn's recent LinkedIn post.

What's next? This executive order is President Trump's second attempt at the MFN model after facing legal challenges in his first administration. Many questions remain to be answered in terms of how the executive order will be implemented and enforced. Notably, the MFN model was not included in the House reconciliation bill. The National Alliance will keep our coalition members up to date on these developments and the impacts on employer sponsored plans.

House Passed "Big, Beautiful Bill" Includes HSA Expansion

The House passed a reconciliation bill this week with a 215-214 vote after weeks of negotiations. The bill includes the expansion of HSAs, supported by the National Alliance and employers and employees enrolled in high-deductible health plans (HDHP). These changes will make services more affordable for both employers and their employees. The bill notably does not include any changes to the tax-exempt status of employer-sponsored health plans.

Health Savings Account Changes:

- **Increase annual contribution limits** by $4,300 for individuals with self-only coverage and $8,550 for family coverage. This increase essentially doubles the contribution limits from 2025.
- **Expands eligibility on the following:**
    - Individuals can contribute to an HSA, even if their spouse has a flexible spending account (FSA). Previously, this made an individual ineligible for an HSA.
    - Working seniors enrolled in Medicare Part A only may continue contributing to an individual HSA.
    - Direct primary care (DPC) arrangements. Individuals will be able to contribute to an HSA and can use these funds for services received through DPC.
        - Fixed fees for DPC may not exceed $150 monthly for an individual, or $300 monthly if more than one person is covered.
        - The DPCs are limited to offering only primary care services.
    - Free or discounted on-site clinics (must be owned or leased by the employer), allowing employees to contribute to an HSA. Qualified items and services include:

        - Physicals
        - Immunizations
        - Over-the-counter drugs or biologicals
        - Treatment for injuries occurring during employment
        - Preventive care for chronic conditions
        - Drug testing
        - Hearing or vision screenings
    - Married couples over 55 can make catch-up contributions to the same HSA
    - Individuals new to HDHP with existing FSAs/HRAs can roll funds into an HSA.
        - Individuals cannot have been enrolled in a HDHP in the four years before coverage and rollover limit is $3,300 for individuals.
    - Allows individuals to use HSA to pay for medical expenses incurred before the HSA was established (must have been established withing 60 days of HDHP coverage).
    - Gym memberships and other sports and fitness expenses will be considered medical expenses. These annual funds would be capped at $500 and $1,000 for single and joint filers, respectively.

Now that the House has passed this legislation, the Senate will begin negotiations on the bill. House Speaker Mike Johnson (R-LA) stated he hopes to get a final bill to the President's desk before July 4.

Mental Health Parity Update

Federal agencies announced they will not enforce the final mental health parity rule issued in September 2024. The non-enforcement announcement comes after a lawsuit by the ERISA Industry Committee challenging the nonquantitative treatment limitation (NQTL) requirements of the 2024 rule. The Departments requested the litigation be stayed while they consider whether to rescind the final rule in response to President Trump's executive order earlier this year directing agencies to review regulations.

The non-enforcement only applies to portions of the 2024 Final Rule and are considered new. This means that any prior guidance issued by the Departments is still valid and employers should ensure they are correctly following that guidance. This includes the 2013 final rule and FAQ guidance as well as the requirement set out in the Mental Health Parity and Addiction Equity Act.

Examples of the new guidance that will not be enforced include:

- Updated evidentiary standards and processes related to a plan's NQTLs, including the need to collect and evaluate outcomes data;
- New standards associated with a plan's NQTL Comparative Analysis, including the fiduciary certification requirements;
- New definitions for key terms under MHPAEA; and
- The meaningful benefits requirement.

The National Alliance Mental Health Parity for Employers Toolkit that contains NQTL Multi-Step Comparative Analysis Audit Tools on UM Protocols and Network Adequacy & INN Reimbursements with embedded quantitative outcomes data (MDRF) worksheets are not based on and do not rely on any new provisions of the 2024 Final Rule. These audit tools rely exclusively on the 2013 Final Rule, CAA Amendment to MHPAEA, FAQs Part 45 and other prior federal guidance, including the 2020 Self-Compliance Tool. We specifically designed these audit tools to not rely on any new portions of the 2024 Final Rule and thus, the Employer Toolkit is fully applicable and enforceable.