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## LEGAL ALERT

### IRS Increases Health FSA Contribution Limit for 2020, Adjusts Other Benefit Limits

On November 6, 2019, the Internal Revenue Service (IRS) released Revenue Procedure [2019-44](#), which raises the health Flexible Spending Account (FSA) salary reduction contribution limit by \$50 to **\$2,750** for plan years beginning in 2020. The Revenue Procedure also contains the cost-of-living adjustments that apply to dollar limitations in certain sections of the Internal Revenue Code.

#### ***Qualified Commuter Parking and Mass Transit Pass Monthly Limit Increase***

For 2020, the monthly limits for qualified parking and mass transit are \$270 each (up \$5 from 2019).

#### ***Adoption Assistance Tax Credit Increase***

For 2020, the credit allowed for adoption of a child is \$14,300 (up \$220 from 2019). The credit begins to phase out for taxpayers with modified adjusted gross income in excess of \$214,520 (up \$3,360 from 2019) and is completely phased out for taxpayers with modified adjusted gross income of \$254,520 or more (up \$3,360 from 2019).

#### ***Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) Increase***

For 2020, reimbursements under a QSEHRA cannot exceed \$5,250 (single) / \$10,600 (family), an increase of \$100 (single) / \$150 (family) from 2019.

#### ***Reminder: 2020 HSA Contribution Limits and HDHP Deductible and Out-of-Pocket Limits***

Earlier this year, the IRS [announced](#) the inflation adjusted amounts for HSAs and high deductible health plans (HDHPs).

	2020 (single/family)	2019 (single/family)
<b>Annual HSA Contribution Limit</b>	\$3,550 / \$7,100	\$3,500 / \$7,000
<b>Minimum Annual HDHP Deductible</b>	\$1,400 / \$2,800	\$1,350 / \$2,700
<b>Maximum Out-of-Pocket for HDHP</b>	\$6,900 / \$13,800	\$6,750 / \$13,500

The ACA's out-of-pocket limits for in-network essential health benefits have also increased for 2020. Note that all non-grandfathered group health plans must contain an embedded individual out-of-pocket limit within

family coverage if the family out-of-pocket limit is above \$8,150 (2020 plan years). Exceptions to the ACA’s out-of-pocket limit rule are also available for certain small group plans eligible for transition relief (referred to as “Grandmothered” plans). Unless extended, relief for Grandmothered plans ends December 31, 2020.

	2020 (single/family)	2019 (single/family)
<b>ACA Maximum Out-of-Pocket</b>	\$8,150 / \$16,300	\$7,900 / \$15,800

**ACA Reporting Penalties (Forms 1094-B, 1095-B, 1094-C, 1095-C)**

The table below describes penalties related to returns filed in the applicable year (e.g., the 2020 penalty is for returns filed in 2020 for calendar year 2019). Note that failure to issue a Form 1095-C when required may result in two penalties, as the IRS and the employee are each entitled to receive a copy (increased for willful failures, with no cap on the penalty).

Penalty Description	2021 Penalty	2020 Penalty
<b>Failure to file an information return or provide a payee statement</b>	\$280 for each return with respect to which a failure occurs	\$270 for each return with respect to which a failure occurs
<b>Annual penalty limit for non-willful failures</b>	\$3,392,000	\$3,339,000
<b>Lower limit for entities with gross receipts not exceeding \$5M</b>	\$1,130,500	\$1,113,000
<b>Failures corrected within 30 days of required filing date</b>	\$50	\$50
<b>Annual penalty limit when corrected within 30 days</b>	\$565,000	\$556,500
<b>Lower limit for entities with gross receipts not exceeding \$5M when corrected within 30 days</b>	\$197,500	\$194,500
<b>Failures corrected by August 1</b>	\$110	\$110
<b>Annual penalty limit when corrected by August 1</b>	\$1,696,000	\$1,669,500
<b>Lower limit for entities with gross receipts not exceeding \$5M when corrected by August 1</b>	\$565,000	\$556,500
<b>Failure to file an information return or provide a payee statement due to intentional disregard</b>	\$560 for each return with respect to which a failure occurs (no cap)	\$550 for each return with respect to which a failure occurs (no cap)



**About the Author.** This alert was prepared for Clark & Lavey Benefits Solutions by Stacy Barrow. Mr. Barrow is a nationally recognized expert on the Affordable Care Act. His firm, Marathas Barrow Weatherhead Lent LLP, is a premier employee benefits, executive compensation and employment law firm. He can be reached at [sbarrow@marbarlaw.com](mailto:sbarrow@marbarlaw.com).

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