

Smarter Health Care Coalition

November 29, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, D.C. 20224

Dear Secretary Yellen and Commissioner Rettig:

The [Smarter Health Care Coalition](#) (the Coalition) appreciated working with the Department and the Service as you considered and finalized [Notice 2019-45](#), which allows more flexibility for health plans and employers to cover certain chronic disease prevention drugs and services pre-deductible in Health Savings Account-eligible plans. We remain grateful for the broadened preventive care safe harbor detailed in IRS Notice 2019-45, and we write to provide very encouraging data about the number of health plans and employers that have changed their plan benefit designs in response to the guidance. **As a result of this overwhelming, positive response, we urge you to expand the list of items and services that may be covered under the preventive care safe harbor to include additional high-value, low-cost drugs and services used to prevent complications of other chronic conditions, especially those that would prevent exacerbation of mental and behavioral health conditions, helping millions of Americans improve their mental and physical health.**

The Coalition represents a broad-based, diverse group of health care stakeholders and taxpayers, including consumer groups, employers, health plans, life science companies, provider organizations, and academic centers. A key focus of the Coalition is ensuring Americans have access to high-value health care services.

For several years prior to the issuance of Notice 2019-45, the Coalition, in partnership with the [University of Michigan Center for Value-Based Insurance Design](#), advocated for additional flexibility to offer chronic disease prevention pre-deductible in Health Savings Account-eligible high deductible plans^{1 2 3 4 5}. We applauded the issuance of Notice 2019-45 and worked with

¹ <https://vbidcenter.org/wp-content/uploads/2014/08/HDHP-white-paper-final.pdf>

² <https://vbidcenter.org/hdhp-interactive-timeline/>

³ <https://vbidhealth.com/docs/NPC%20HDHP+%20FINAL%2005-30-2019.pdf>

⁴ <https://vbidcenter.org/chronic-disease-mngmt-act-2018/>

⁵ <https://vbidcenter.org/chronic-disease-mgmt-act-2019/>

our members to create awareness about the guidance⁶. We are delighted to share with you results from three publications showing an overwhelming, positive response to the guidance in the form of employers and health plans making changes to their plan designs to cover more high-value services pre-deductible.

- [The 2020 Kaiser Family Foundation Employer Health Benefits Survey \(EHBS\)](#) found that 29% of employers with 200 or more employees and 48% of employers with more than 5,000 say they “changed the services or products that individuals with chronic conditions could receive without first meeting their deductibles”.⁷
- [The 2021 AHIP and Smarter Health Care Coalition survey](#) found that 75% of health insurance plans covered additional services pre-deductible in their fully insured products and 80% of plans covered additional services pre-deductible in their self-insured products.⁸ The survey found diabetes and heart disease are the two most commonly targeted conditions for reducing or eliminating cost sharing. Importantly, most respondents communicated premiums increased by less than 1% or did not change at all.
- [The 2021 Employee Benefit Research Institute \(EBRI\) survey](#) of employers found three in four employers (76%) say they added pre-deductible coverage as a result of IRS Notice 2019-45.⁹ Pre-deductible coverage was often added for health care services related to heart disease and diabetes care. Two-thirds added pre-deductible coverage for blood pressure monitors and insulin/glucose lowering agents, 61% added coverage for glucometers, and 54% added coverage for beta blockers. Most employers said they would add pre-deductible coverage for additional health care services if allowed by law.

These important results underscore the overwhelming, positive response to the guidance. The findings highlight the high level of interest among health plans and employers to make it easier for their enrollees and employees with chronic conditions to access high-value health care that will prevent exacerbation of their conditions. Additionally, the surveys show more affordable care for chronic health conditions does not lead to higher premiums for everyone. Moreover, a majority of survey respondents said they would expand pre-deductible coverage to cover additional chronic disease prevention.

The Coalition urges the IRS to expand current guidance to allow employers and plans the flexibility to offer additional services and medications pre-deductible – especially those related mental and behavioral health, including medication for opioid use disorders. Given the mental health crisis that has emerged alongside the ongoing COVID-19 pandemic, the time is now for action to empower employers and health plans to address rising incidence of chronic mental

⁶https://static1.squarespace.com/static/5e583a2544d97f413cf8190e/t/5ed11a6202ae51475736a695/1590762082263/Smarter+Health+Care+Coalition_CDMA+Treasury+Guidance_Press+Release+7-17-19.pdf

⁷<https://files.kff.org/attachment/Report-Employer-Health-Benefits-2020-Annual-Survey.pdf>

⁸https://www.ahip.org/wp-content/uploads/202109-AHIP_HDHP-Survey-v03.pdf

⁹https://www.ebri.org/docs/default-source/ebri-issue-brief/ebri_ib_542_hsaemployersur-14oct21.pdf?sfvrsn=73563b2f_2

illness. During the pandemic, approximately 4 in 10 adults reported symptoms of anxiety or depressive disorder, up from 1 in 10 adults who reported these symptoms from January to June 2019.¹⁰ Additionally, those suffering from chronic illnesses face a higher likelihood of having a concurrent mental health disorder compared to those without chronic illnesses.¹¹ Notably, this behavioral health crisis disproportionately affects certain populations, such as those that have historically been underserved within the health care system. Nearly half of all Black, Hispanic, Asian, Native American and LGBTQ+ individuals say they have personally experienced increased mental health challenges over the past 12 months, but few received treatment, according to a poll by the National Council for Mental Wellbeing.¹² For those who have tried to seek treatment, many are faced with challenges related to inaccessibility and unaffordability. **This underscores the need for additional flexibility allowing employers and health plans to offer mental and behavioral health drugs and services pre-deductible for Health Savings Account-eligible plans.**

The Smarter Health Care Coalition greatly appreciates your leadership and work to make it easier for the 6 out of 10 Americans with chronic conditions to access the care they need to stay healthy. **Notice 2019-45 worked.** The Department and IRS' actions gave millions of Americans enhanced access to life-enhancing medications and care, likely improving patient outcomes and reducing health care disparities. More Americans struggling to afford essential medications and services deserve a similar opportunity. **Given the very high number of employers and health plans who modified their benefits to make it easier for patients with chronic disease to afford care, we urge you expand the preventive care safe harbor to include additional high-value, low-cost drugs and services.** We would appreciate the opportunity to meet with you at your earliest convenience to discuss these important matters.

Sincerely,

Andrew MacPherson, Ray Quintero, and Katy Spangler
Co-Directors, Smarter Health Care Coalition

¹⁰ <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/>

¹¹ <https://www.rwjf.org/en/library/research/2011/02/mental-disorders-and-medical-comorbidity.html>

¹² <https://www.thenationalcouncil.org/wp-content/uploads/2021/07/National-Council-Minority-Mental-Health-PPT-Analysis-July-2021-.pdf?daf=375ateTbd56>