

COMPLIANCE ALERT



EMPLOYEE BENEFITS | NOVEMBER 11, 2021

IRS Adjusts Health Flexible Spending Account and Other Benefit Limits For 2022

On November 10, 2021, the Internal Revenue Service (IRS) released [Revenue Procedure 2021-45](#), which increases the health flexible spending account (FSA) salary reduction contribution limit from 2021 to **\$2,850** for plan years beginning in 2022, an increase of \$100 from 2021. Thus, for health FSAs with a carryover feature, the maximum carryover amount is \$570 (20% of the \$2,850 salary reduction limit) for plan years beginning or ending in 2022. 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

For 2022, the monthly limits for qualified parking and mass transit are increased to \$280 each, an increase of \$10 from 2021.

Adoption Assistance Tax Credit Increase

For 2022, the credit allowed for adoption of a child is \$14,890 (up \$450 from 2021). The credit begins to phase out for taxpayers with modified adjusted gross income in excess of \$223,410 (up \$6,750 from 2021) and is completely phased out for taxpayers with modified adjusted gross income of \$263,410 or more (up \$6,750 from 2021).

Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) Increase

For 2022, reimbursements under a QSEHRA cannot exceed \$5,450 (single) / \$11,050 (family), an increase of \$150 (single) / \$350 (family) from 2021.

Reminder: 2022 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).

	2022 (single/family)	2021 (single/family)
Annual HSA Contribution Limit	\$3,650 / \$7,300	\$3,600 / \$7,200
Minimum Annual HDHP Deductible	\$1,400 / \$2,800	\$1,400 / \$2,800
Maximum Out-of-Pocket for HDHP	\$7,050 / \$14,100	\$7,000 / \$14,000

The ACA's out-of-pocket limits for in-network essential health benefits have also increased for 2022. Note that all non-grandfathered group health plans must contain an embedded individual out-of-pocket limit if the family out-of-pocket limit is above \$8,700 (2022 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, 2022.

	2022 (single/family)	2021 (single/family)
ACA Maximum Out-of-Pocket	\$8,700 / \$17,400	\$8,550 / \$17,100

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

The table below describes late filing penalties for ACA reporting. The 2023 penalty is for returns filed in 2023 for calendar year 2022, and the 2022 penalty is for returns filed in 2022 for calendar year 2021. 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.

Penalty Description	2023 Penalty	2022 Penalty
Failure to file an information return or provide a payee statement	\$290 for each return with respect to which a failure occurs	\$280 for each return with respect to which a failure occurs
Annual penalty limit for non-willful failures	\$3,532,500	\$3,426,000
Lower limit for entities with gross receipts not exceeding \$5M	\$1,177,500	\$1,142,000
Failures corrected within 30 days of required filing date	\$50	\$50
Annual penalty limit when corrected within 30 days	\$588,500	\$571,000

Penalty Description	2023 Penalty	2022 Penalty
Lower limit for entities with gross receipts not exceeding \$5M when corrected within 30 days	\$206,000	\$199,500
Failures corrected by August 1	\$110	\$110
Annual penalty limit when corrected by August 1	\$1,766,000	\$1,713,000
Lower limit for entities with gross receipts not exceeding \$5M when corrected by August 1	\$588,500	\$571,000
Failure to file an information return or provide a payee statement due to intentional disregard	\$580 for each return with respect to which a failure occurs (no cap)	\$570 for each return with respect to which a failure occurs (no cap)

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