



TaxNewsFlash

United States



No. 2023-236
July 7, 2023

Proposed regulations: Definitions of short-term, limited-duration insurance and excepted benefits coverage, tax treatment of certain accident and health insurance

The Treasury Department and IRS—along with the Department of Labor and the Department of Health and Human Services—today released for publication in the Federal Register proposed regulations (REG-120730-21) that would amend the definition of “short-term, limited-duration insurance,” which is excluded from the definition of “individual health insurance coverage” under the Public Health Service Act.

The [proposed regulations](#) [PDF 1.1 MB] (63 pages as published in the Federal Register on July 12, 2023) also would:

- Amend the requirements for hospital indemnity or other fixed indemnity insurance to be considered an excepted benefit in the group and individual health insurance markets
- Clarify the tax treatment of certain benefit payments in fixed amounts received under employer-provided accident and health plans that are paid without regard to the amount of medical expenses incurred

The preamble to the proposed regulations explains that:

- The revisions are proposed to define and more clearly distinguish short-term, limited-duration insurance and fixed indemnity excepted benefits coverage from comprehensive coverage, which is subject to the Federal consumer protections and requirements established under chapter 100 of the Code, part 7 of the Employee Retirement Income Security Act of 1974 (ERISA), and title XXVII of the Public Health Service Act (such as the prohibition on exclusions for preexisting conditions, the prohibition on health status discrimination, the requirement to cover certain preventive services without cost sharing, and many others).
- The revisions are proposed to promote equitable access to high-quality, affordable, comprehensive coverage by increasing consumers’ understanding of their health coverage options and reducing misinformation about short-term, limited-duration insurance and fixed indemnity excepted benefits coverage, consistent with Executive Orders 14009 and 14070.

- Similarly, clarifying the tax treatment of benefit payments in fixed amounts under hospital indemnity or other fixed indemnity coverage purchased on a pre-tax basis when those benefits are paid without regard to the medical expenses incurred is also an important means by which to distinguish that coverage from comprehensive coverage and may serve to promote the purchase of comprehensive coverage in the group market.

Comments on the proposed regulations are due by September 11, 2023.

The proposed regulations specifically solicit comments regarding:

- Coverage only for a specified disease or illness that qualifies as excepted benefits
- Level-funded plan arrangements to better understand the key features and characteristics of these arrangements and whether additional guidance or rulemaking is needed to clarify plan sponsors' obligations with respect to coverage provided through these arrangements
- Applicability dates

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