

EMPLOYEE BENEFITS

Fixed Indemnity Excepted Benefits Coverage

On March 28, 2024, the U.S. Departments of Health & Human Services, Labor and Treasury released final rules related to both Short-Term Limited Duration Insurance (STLDI) and Fixed Indemnity policies. The focus of this article will be on the final rules impact on fixed indemnity policies, but information related to changes made to the rules surrounding STLDI coverage can be found, [here](#). Although these final rules did not adopt many of the proposed fixed indemnity policy regulations, including those proposed rules related to the payment standards and non-coordination of fixed indemnity policies, the final rules did adopt a requirement to provide consumer notices in the group market. The intent of the new notice requirement is to help consumers distinguish between fixed indemnity coverage and comprehensive coverage.

Background

Hospital/fixed indemnity insurance is typically used as a form of income replacement for participants experiencing a health-related injury or illness. It is not intended to provide a financial source of comprehensive health coverage. Typically, these benefits are paid in a “fixed cash” benefit or lump sum payment to the participant, regardless of the amount of health care expense. The benefit can be used however the participant deems necessary (e.g., payment for out-of-pocket expenses or income loss during the injury/illness time).

For example, this could be a fixed payment benefit of \$100 each day of hospitalization or illness. If a hospital/fixed indemnity plan meets certain payment standards and other regulatory criteria, it would be considered an excepted benefit for purposes of HIPAA and the Affordable Care Act.

In July 2023, proposed rules were released to address federal government concerns regarding hospital/fixed indemnity plans. In addition, the IRS proposed a rule under which payments made from a hospital/fixed indemnity policy purchased by an employee on a pre-tax basis would be included in the employee’s taxable income, regardless of the employee’s unreimbursed medical expenses.

Ultimately, these final rules issued in March 2024 did not adopt many of the above-proposed regulations but stated that the federal government may adopt specific rule changes to address these concerns in the future.

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Hospital/Fixed Indemnity Plan Changes

At this time, the only relevant change to hospital/fixed indemnity plan rules in the group market is the delivery of a notice created by the federal government to individuals seeking to enroll in a hospital/fixed indemnity plan in the group insurance market. The notice describes the key differences between comprehensive coverage and hospital/fixed indemnity policies.

This notice must be included in all marketing/application/enrollment/re-enrollment materials in the group market. Plan sponsors should provide this notice to enrollees/re-enrollees during open enrollment/special enrollment (if applicable)/initial enrollment each plan year.

This notice must also be prominently displayed in the policy, certificate or contract of insurance in the individual market and on the first page of any marketing, application and enrollment materials related to the fixed indemnity plan.

The hospital/fixed indemnity notice requirement applies to the group market for new and existing plan/policy coverage for all hospital/fixed indemnity plan/policy years beginning on or after January 1, 2025.

The revised notice for group policies can be found on page 23419 of the final rules or the last page of this article. The Departments will review additional studies and considerations before addressing the amendments surrounding the payment standards and non-coordination requirements in future guidance.

For more information on these final rules related to fixed indemnity policies, click [here](#).



Hospital/Fixed Indemnity Plan Notice – Effective January 1, 2025

IMPORTANT: This is a fixed indemnity policy, NOT health insurance

This fixed indemnity policy may pay you a limited dollar amount if you're sick or hospitalized. You're still responsible for paying the cost of your care.

- The payment you get isn't based on the size of your medical bill.
- There might be a limit on how much this policy will pay each year.
- This policy isn't a substitute for comprehensive health insurance.
- Since this policy isn't health insurance, it doesn't have to include most Federal consumer protections that apply to health insurance.

Looking for comprehensive health insurance?

- Visit [Healthcare.gov](https://www.healthcare.gov) or call 1-800-318-2596 (TTY:1-855-889-4325) to find health coverage options.
- To find out if you can get health insurance through your job or a family member's job, contact the employer.

Questions about this policy?

For questions or complaints about this policy, contact your State Department of Insurance. Find their number on the National Association of Insurance Commissions' website ([naic.org](https://www.naic.org)) under "Insurance Departments." If you have this policy through your job, or a family member's job, contact the employer.





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