

# Federal Departments Announce No Enforcement Action Regarding Drug Manufacturer Coupons Counting Toward Out-of-Pocket Maximums

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HHS's 2020 Notice of Benefit and Payment Parameters (the "**NBPP**") provides that a group health plan does not have to count drug manufacturer coupons for brand-name drugs towards an annual out-of-pocket maximum if there is a medically appropriate generic equivalent. Many questions were raised by this rule, including (i) how it interacted with health savings account guidance and (ii) what types of arrangements and/or plans to which it applied. The DOL, HHS, and the Treasury Department (collectively, the "**Departments**") announced in an FAQ (available [here](#)) that the Departments will not initiate any enforcement action if a group health plan does not count the value of drug manufacturer coupons toward an out-of-pocket maximum. This no enforcement policy lasts until HHS's 2021 NBPP becomes effective, and the 2021 NBPP should clarify how this rule affects employer-sponsored group health plans.