



# ABD Compliance Alert

## Oh HSA Can You See...a \$2,600 Minimum HDHP Deductible

6/30/2016

By: Brian Gilmore, Lead Benefits Counsel, VP

The Fourth of July brings beaches, barbecues, sunshine, and salutes. And in our business, it brings the beginning of renewal season.

Have you noticed that all of the California high deductible health plan (HDHP) renewals have been coming in with a new twist? As a result of a California law taking full effect in 2017, the minimum HDHP individual deductible will be \$2,600.

### California AB 1305 Requires Embedded Individual Deductible in 2017

[California AB 1305](#) generally requires fully insured California policies to have an embedded individual deductible on a family plan that is no greater than the policy's individual deductible for coverage starting in 2017.

#### AB 1305:

*“for a large group market health insurance policy for family coverage that is issued, amended, or renewed on or after January 1, 2017, includes a deductible, an individual within a family shall not have a deductible that is greater than the deductible limit for individual coverage for that product.”*

For example, assume a California HDHP policy currently has a \$4,000 family deductible and a \$2,000 individual deductible. In 2017, the plan would need to treat an individual in family coverage as having reached the deductible at \$2,000 in the individual's covered expenses—not the \$4,000 collective family deductible.

As discussed below, this will require changes to the plan to maintain HDHP status.

### HDHP Status Requires Minimum Collective Family Deductible

An individual must be covered by a plan that qualifies as a HDHP (and have no other disqualifying coverage) to be eligible to make or receive HSA contributions. One of the key requirements for a plan to qualify as a HDHP is that it contain the required minimum deductible.

For 2016 and 2017, the HDHP minimum individual deductible is \$1,300, and the minimum family deductible is \$2,600.

Here's the kicker: The HDHP rules require that the family satisfy a deductible no lower than the family minimum \$2,600 deductible. In other words, the HDHP rules prevent including an embedded individual deductible that is lower than the minimum required deductible for family HDHP coverage (\$2,600 in 2016/2017).

See [IRS Notice 2004-2](#), Q/A-3 for a summary of this family HDHP deductible limitation.

### Now This is What It's Like When Worlds Collide

The HDHP family deductible rules are essentially the opposite of those in California AB 1305. So how do you reconcile the two?



The answer is simple, but also quite disruptive. For fully insured 2017 California HDHP policies, the individual deductible will need to be increased to at least \$2,600 to maintain HDHP status.

Let's go back to the example above with a \$4,000/\$2,000 deductible. Under AB 1305, that policy would require an individual covered by a family policy to be treated as having reached the deductible upon incurring \$2,000 in covered expenses. That plan would therefore not qualify as an HDHP—because the family would not be required to fulfill a deductible of at least \$2,600.

AB 1305 recognizes this issue and therefore requires that any HDHP individual deductible be at least as high as the HDHP family deductible minimum (\$2,600).

AB 1305:

*“(B) If a large group market health insurance policy for family coverage that is issued, amended, or renewed on or after January 1, 2017, includes a deductible and is a high deductible health plan under the definition set forth in Section 223(c)(2) of Title 26 of the United States Code, the policy shall include a deductible for each individual covered by the policy that is equal to either the amount set forth in Section 223(c)(2)(A)(i)(II) of Title 26 of the United States Code [the family HDHP deductible] or the deductible for individual coverage under the policy, whichever is greater.”*

**Bottom Line:** California fully insured policies issued, amended, or renewed on or after January 1, 2017 must include an individual deductible of at least \$2,600 to meet both the AB 1305 requirements and qualify as a HDHP for employees to be HSA eligible.

*Disclaimer: The intent of this analysis is to provide the recipient with general information regarding the status of, and/or potential concerns related to, the recipient's current employee benefits issues. This analysis does not necessarily fully address the recipient's specific issue, and it should not be construed as, nor is it intended to provide, legal advice. Furthermore, this message does not establish an attorney-client relationship. Questions regarding specific issues should be addressed to the person(s) who provide legal advice to the recipient regarding employee benefits issues (e.g., the recipient's general counsel or an attorney hired by the recipient who specializes in employee benefits law).*