

EMPLOYEE BENEFITS

Consolidated Appropriations Act of 2022 Extends Special HSA Eligibility Rule for Telehealth Services

The Consolidated Appropriations Act (CAA) of 2022, signed into law on March 15, 2022, includes some good news for employers that offer telehealth and HSA programs. Under the CAA of 2022, employers may amend their plans to allow employees to receive first-dollar coverage for telehealth and other remote care from April 1 through December 31, 2022. Doing so will not cause a loss of eligibility for HSA contributions.

Background

Generally speaking, the availability of telehealth benefits makes an employee ineligible to make or receive HSA contributions. To preserve an employee's HSA eligibility, employers with HSA programs that also offer telehealth benefits (either through the high deductible health plan (HDHP) or through a stand-alone telehealth benefit) previously needed to either (1) limit the telehealth benefits available to HDHP enrollees to preventive care until the deductible is satisfied or (2) charge HDHP enrollees who use telehealth services (other than for preventive care) a fee equal to the fair market value of the care until the deductible is satisfied.

Due to the COVID-19 pandemic, the CARES Act amended the section of the Internal Revenue Code governing HSAs (Section 223) to specifically provide that, during plan years beginning prior to January 1, 2022: (1) coverage for telehealth and other remote care is disregarded when determining whether someone is eligible for HSA contributions and (2) a group health plan will not fail to be an HDHP solely because it provides coverage for telehealth and other remote care before the satisfaction of the minimum deductible.

As a result, for plan years beginning in 2021, employees generally could remain eligible for HSA contributions even if they could receive telehealth and other remote care before the satisfaction of the HDHP deductible without having to pay the fair market value of the services. Employers had the option (but were not required) to adjust their plans to take advantage of this relief provided by the CARES Act.



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Consolidated Appropriations Act of 2022

The CAA of 2022 essentially extends the relief provided in the CARES Act (with a catch). As with the CARES Act, the CAA of 2022 amends Section 223 of the Internal Revenue Code to provide that: (1) coverage for telehealth and other remote care is disregarded when determining whether someone is eligible for HSA contributions and (2) a group health plan will not fail to be an HDHP solely because it provides coverage for telehealth and other remote care before the satisfaction of the minimum deductible.

The catch is that the extension provided in the CAA of 2022 is effective only during the specific time period of April 1, 2022, through December 31, 2022, regardless of the plan year on which the employer's HDHP or telehealth plan operates. As a result, for calendar year plans and non-calendar year plans with plan years beginning prior to April 1, there is a gap, between the last day of the 2021 plan year and April 1, 2022, during which the relief provided by the CAA of 2022 is not available. Furthermore, for non-calendar year plans, the relief will be available only for a portion of the plan year beginning in 2022 because it ends on December 31.

Considerations for Employers

The relief is permissive rather than mandatory. In other words, plans generally are not required to provide coverage for telehealth and other remote care before the satisfaction of the HDHP deductible or without requiring payment of the fair market value for the services unless otherwise required by law (e.g., if the services constitute preventive care). Accordingly, employers that sponsor HDHPs or stand-alone telehealth plans must decide whether to take advantage of the new relief. Those who do will likely need to amend their plans to incorporate the changes for the period of April 1 through December 31, 2022.





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