

March 15, 2022

CAA OF 2022 INCLUDES FEDERAL EXTENSION TO TELEHEALTH PROTECTIONS FOR HDHPS

Last week, Congress passed the Consolidated Appropriations Act (CAA) of 2022, a \$1.5 trillion governmental funding package. Among its many provisions, the bill extends access to telehealth services for individuals who are covered under a health savings account (HSA)-qualified high deductible health plan (HDHP).

Typically, HSA-qualified HDHPs cannot pay for covered services, except for specified preventative care, until the participant meets the plan's deductible. This legislation permits sponsors of HDHPs to offer telemedicine services at no cost to participants, regardless of the plan's annual deductible, without impacting participant HSA eligibility. This relief was initially established as a component of emergency COVID-19 legislation, and it expired on December 31, 2021. The 2022 CAA reinstates these telemedicine protections for the period of April 1, 2022, through December 31, 2022.

There is a three-month gap in this relief between January 1, 2022, and March 31, 2022, which means that participant deductibles should be applied to any non-preventative telehealth claims incurred during this time. If the IRS chooses to take enforcement action against HDHP plan participants who accessed telemedicine services without cost-sharing at the beginning of this year, those individuals could lose eligibility to contribute to their HSAs from January-March 2022. It is unclear if the IRS will pursue enforcement for the period when this relief lapsed or not.

Employers who sponsor HDHPs and want to take advantage of this optional relief should change their plan on a prospective basis and limit the complete coverage of telehealth services to April 1-December 31, 2022. Employers and brokers should work with their insurance carriers and/or third-party claims administrators to ensure that this relief is only applied to telehealth services provided during that time.

In addition to the extension of telemedicine protections for HDHPs, the 2022 CAA expands the scope of telehealth services that Medicare will cover. The legislation also allows both Medicare and Medicaid to continue covering select telehealth services for 151 days after the COVID-19 public health emergency ends.

Our organization will continue to monitor COVID-19 developments and share information about legislative actions that impact group health plans as it becomes available.

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