December 30, 2024

**Telehealth Safe Harbor for Many HSA-Qualified HDHPs Set to Expire January 1**

**Timely Update**

- We are sharing this Benefits Bullets to apprise clients of a timely and significant development that affects plan sponsors of High Deductible Health Plans (HDHPs) with Health Savings Accounts (HSAs).
- In brief: As a result of Congressional inaction, HDHPs whose plan years begin in 2025 will no longer be permitted to cover many telehealth or remote health services for participants who have not met their deductible, without potentially disqualifying participants' HSAs.
- Examples of common health plan services relying on the telehealth exception include remote-based mental health care and substance abuse counseling services as well as app-based, self-directed physical therapy services.
- The safe harbor permitting such coverage may be reinstated in 2025, but as of now, Congress has allowed it to expire. In one recent year, the safe harbor was reinstated mid-year and the IRS did not pursue enforcement with respect to the portion of the year prior to its reinstatement. While we would hope for a similar outcome in 2025, that is dependent on both Congressional action and IRS non-enforcement.
- As a result, affected plan sponsors should consider whether participants who receive telehealth services in plan years beginning as of 2025, but who have not yet met their HDHP deductible, should be subject to cost-sharing (unless the law otherwise requires the service to be covered pre-deductible, such as a telehealth visit to obtain ACA-covered preventative prescriptions).
- Affected plan sponsors may also need to consider amending plan provisions and summary plan documents (SPDs) with respect to telehealth services and possibly sending participant communications regarding coverage changes.

**Additional Details**

- The HDHP telehealth safe harbor was originally enacted in the wake of the COVID-19 pandemic: effective March 27, 2020, the CARES Act permitted HSA-qualified HDHPs to cover telehealth or remote-care services before the plan's deductible was met.
- This time-limited safe harbor was extended several times by subsequent legislation but expires at the end of 2024 and a further extension was left out of the final version of the American Relief Act of 2025 which President Biden signed into law on December 21, 2024.
- We anticipate that many participants of HSA-qualified HDHPs may experience the expiry of the safe harbor as a significant change to their healthcare coverage.
- We would be happy to help any affected clients think through compliance obligations and participant communications necessitated by this change.