

Telehealth Relief Included in End-Of-Year Omnibus Bill

On December 23, 2022, the Consolidated Appropriations Act, 2023 (CAA23) was signed into law. While this legislation does not include as many health provisions as the CAA of 2021, it does include the anticipated relief on telehealth coverage offered through qualified High Deductible Health Plans (HDHPs) that pair with Health Savings Accounts (HSAs).

Typically, HSA-qualified HDHPs cannot pay for covered services, except for specified preventive care, until the participant meets the plan's deductible. The CAA23 extends a protection that originated with the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) which allows people who have coverage through a HDHP to receive telehealth care at no cost, regardless of the plan's annual deductible, without impacting their eligibility to contribute to an HSA. This protection was set to expire on December 31, 2022. However, the CAA23 creates a safe harbor for first-dollar telehealth coverage offered through an HDHP for plan years beginning after December 31, 2022, through December 31, 2024.

The wording of this extension creates a small gap in relief for non-calendar year plans. The old relief will expire on December 31, 2022, and plan sponsors can only begin taking advantage of this new relief once their plan renews after that date. This means that groups with plans renewing on January 1, 2023 can offer the relief immediately, whereas groups with plans that renew in a different month of the year will need to wait until the start of their 2023 plan year to begin offering it. For example, a group plan year that begins on April 1, 2023 cannot offer this relief until that date. Similarly, groups with non-calendar year plans that have already been offering the relief available under previous legislation will have to cease allowing participant access to telehealth on a first-dollar basis from January 1, 2023 until the start of their 2023 plan year.

This relief is optional for plan sponsors. Group plan sponsors are not required to offer their participants access to telehealth coverage at all, nor do they have to offer it on a first-dollar basis for any type of plan offering, including HDHPs. If a group decides to adopt this relief, they also need to make sure their plan documents are amended accordingly. Specifically, the definition of care that can be accessed pre-deductible for purposes of HDHPs should reflect this latest relief offered by the CAA23.