

Down to the Wire: Will We Have HSA with Pre-Deductible Telehealth in 2025?

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Important Update—Pre-Deductible Telehealth HSA Relief Ends on December 31, 2024: As discussed in our post below, although extension of the telehealth safe harbor was included in various bill drafts, the year-end spending bill signed into law on December 21, 2024 (American Relief Act, 2025) does **not** include pre-deductible telehealth relief. This means that the telehealth services safe harbor will not be available for plan years starting on or after January 1, 2025. For more details on what this means for high-deductible health plan sponsors, read below.

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The telehealth services safe harbor for high deductible health plans (“HDHPs”) will expire for plan years starting on or after January 1, 2025, absent Congress passing legislation extending or making the safe harbor permanent. While recent days suggest that Congress may pass legislation on telehealth before year-end (along with other relevant changes for plan sponsors, including pharmacy benefit manager reform), nothing is guaranteed and with the expiration date fast approaching, plan sponsors may want to consider next steps.

By way of background, under the normal rules, to be eligible to make or receive contributions to a health savings account (“HSA”), an individual must be covered by an HDHP. Coverage for telehealth or other remote care services before the minimum deductible is satisfied would make an HDHP participant ineligible to make or receive HSA contributions. This rule was waived for telehealth and remote care services as part of relief offered under the CARES Act and the relief was subsequently extended for plan years beginning before January 1, 2025. If a participant is ineligible to make HSA contributions, any contributions made while ineligible would need to be included in the participant’s taxable income and would be subject to a 10% excise tax.

Although an extension of pre-deductible telehealth relief is on Congress's radar for inclusion in a year-end spending bill, the passage of that bill is uncertain at the moment. Given the timing and uncertainty, plan sponsors may want to consider next steps if relief is not finalized before year-end. For example, assuming the safe harbor expires, to maintain HSA eligibility for HDHP participants, plan sponsors may require that an HDHP participant pay fair market value for non-preventive telehealth and remote care services until the participant satisfies the minimum HDHP deductible. To the extent telehealth and remote care coverage changes, plan sponsors should remember to update plan documents and summary plan descriptions as needed and to timely communicate the changes to participants.

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