



COMPLIANCE ALERT

SUNSETTING HSA-RELIEF FOR PRE-DEDUCTIBLE TELEHEALTH SERVICES

Written by: Bryan Gross, Esq. - Director, Compliance Regulation

Beginning on January 1, 2023, high-deductible health plans (HDHPs) may no longer take advantage of a temporary rule that has permitted pre-deductible coverage of telehealth or other remote care services while maintaining the participants' health saving account (HSA) eligibility. Under the expiring rule, provision of no-cost or reduced-cost telehealth services before the statutory minimum deductible has been met are considered to be "disregarded coverage" for the months of April 2022 – December 2022. As of this article's publication, neither Congress nor the Internal Revenue Service (IRS) had expressed any imminent plans to extend the relief.

BACKGROUND:

The [Consolidated Appropriations Act, 2022](#) (CAA), which was signed into law on March 15, 2022, extended the ability of HDHPs to provide pre-deductible coverage for telehealth services for "months beginning after March 31, 2022, and before January 1, 2023." This provision is entirely optional and was intended to promote remote-access to care during the COVID-19 pandemic.

IMPACT OF RULE'S EXPIRATION:

Following expiration of this temporary relief, the general HSA contribution rules will strictly limit availability of first-dollar or reduced-cost telehealth services before the minimum deductible has been satisfied (absent another exception, such as for preventive care services). Such coverage would amount to disqualifying coverage for an otherwise HSA-eligible individual, preventing him or her from making tax-free contributions during the associated period.

HDHP plan sponsors that opted to provide pre-deductible telehealth services under the relief, must now ensure that their plans no longer provide such coverage beginning on or after January 1, 2023. This is true regardless of whether the plan year is calendar year or fiscal year as the outgoing relief was for a set timeframe (April 1, 2022 – December 31, 2022). It's generally the employer's responsibility to ensure that any employees making salary-reduction contributions to an HSA (i) are enrolled in a qualified HDHP sponsored by the employer, and (ii) are not enrolled in other disqualifying coverage also sponsored by the employer.

Please reach out to your MJ Consultant if you have any questions or concerns about whether your group health plan is in compliance with these rules.