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Client Alert Applies To: Self-Funded, Fully-Funded, Large Group, and Small Group

December 29, 2022

CARES Act HDHP Telehealth Safe Harbor Extended for Two Additional Years

In 2020, the CARES Act established a temporary safe harbor that permitted High Deductible Health Plans (HDHPs) to cover telehealth and remote care services on a first-dollar basis without jeopardizing Health Savings Account (HSA) eligibility. By allowing HDHP participants pre-deductible coverage of telehealth, the safe harbor increased access to telehealth services during the COVID-19 pandemic. Participants could obtain pre-deductible telehealth services while maintaining eligibility for, and contributing to, an HSA. Plans did not have to adopt this safe harbor; rather, it was at the Plan's discretion.

The CARES Act temporary safe harbor has been extended several times but was set to expire on December 31, 2022. However, in Section 4151 of the recently passed Consolidated Appropriations Act 2023 ("CAA 2023"), Congress has once again extended this temporary safe harbor for two additional years through December 31, 2024. Therefore, HDHPs can choose to cover telehealth on a pre-deductible basis through the end of 2024. Again, the adoption of this temporary safe harbor is voluntary, not required. Some plans and plan sponsors have chosen to take advantage of this ongoing flexibility, while others have not. While some plans will welcome this additional temporary relief, a permanent solution to the issue would be welcome.

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