

Publications

Telehealth Services Safe Harbor for High-Deductible Health Plans Expires December 31, 2024

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On December 21, 2024, President Biden signed into law the American Relief Act, 2025 ("2025 Relief Act"), which funds the federal government through March 14, 2025, and provides certain disaster relief provisions and other economic assistance. However, many important health-related provisions that may impact health plans were stripped from the 2025 Relief Act at the last minute.

Most notably, the 2025 Relief Act did not extend the popular telehealth safe harbor born out of the CARES Act, which permitted high-deductible health plan (HDHP) sponsors to reimburse telehealth and remote care services on a pre-deductible or first dollar coverage basis to participants with a health savings account (HSA). Although the telehealth safe harbor was extended previously, that extension expires on December 31, 2024. This means that for plan years beginning January 1, 2025, participants in HDHPs will not be eligible to make or receive contributions to their HSA if they can receive free telehealth services or receive telehealth services for less than fair market value for non-preventive services before meeting the HDHP deductible. While the telehealth extension had bipartisan support, it is not clear when or whether Congress may act to resurrect the extension, including whether provisions would be retroactive if enacted. Given this uncertainty and the expiration of the safe harbor at the end of 2024, plan sponsors must quickly determine next steps and communicate those steps to participants. For example, plan sponsors may:

- require HDHP participants to pay fair market value for non-preventive telehealth services until the participant satisfies the minimum HDHP deductible. The fair market dollar value that HDHP participants pay for eligible services will count toward both the HDHP deductible and the maximum out-of-pocket limit.
- disallow HDHP participants from utilizing telehealth services for non-preventive services until they meet their HDHP deductible. This may be necessary if telehealth vendors do not have fair market dollar valuations available.

- eliminate telehealth services from the HDHP plan.

To the extent telehealth coverage changes, plan sponsors should remember to update plan documents and summary plan descriptions as needed and to timely communicate the changes to participants. Additionally, plan sponsors must consider whether a change in plan design, such as eliminating telehealth services, is considered to be a significant change in coverage under their cafeteria plan.

Please contact your Vorys benefits attorney if you have any questions.