

# compliance ALERT

## New Funding Law Extends HSA Telehealth Relief

March 17, 2022

### Action Required:

- **Fully-insured plans:** discuss these rule changes with the insurance carrier.
- **Self-insured plans:** discuss these rule changes with the third-party administrator and stop-loss provider.
- **Communicate these changes to all HDHP participants.**

On March 15, President Joe Biden signed into law the [Consolidated Appropriations Act, 2022](#) (“CAA 2022”) that among many other items, extends COVID-19 relief available for telehealth benefits offered through high deductible health plans (HDHPs) with health savings accounts (HSAs).

#### How Does this Change the Law?

Under the CARES Act, temporary relief allowed HDHPs to provide telehealth benefits at no cost to participants before the satisfaction of the minimum HDHP deductible without causing a participant to lose HSA eligibility. This relief under the CARES Act only applied for plan years beginning on or before December 31, 2021. However, now, under the CAA 2022, this relief will be available from April 1, 2022 through December 31, 2022.

This relief is now optional—employers and plan sponsors do not have to adopt this relief for their HDHP plans if they do not want to.

#### What Should Employers and Plan Sponsors Do Next? Do we need to amend our Plan Document to Take Advantage of this?

Employers sponsoring fully-insured plans should discuss these rule changes with their insurance carrier to determine how these changes will be implemented.

Employers with a self-insured plan should work with their third party administrator (TPA) and stop-loss provider to discuss how they want to take advantage of the relief.

Nothing in the law expressly requires that the plan document for the HDHP be amended to reflect this extension of this relief, but to the extent that a change is being made to the plan to take advantage of the relief, this change should be communicated to all HDHP participants.

↓ **Full Explanation Follows** ↓

# New Funding Law Extends HSA Telehealth Relief

On March 15, President Biden signed into law a new government funding bill, the [Consolidated Appropriations Act, 2022](#) (“CAA 2022”), that among many other items, extends COVID-19 relief available for telehealth benefits offered through high deductible health plans (HDHPs) with health savings accounts (HSAs).

## How Does this Change the Law?

Under the CARES Act, temporary relief allowed HDHPs to provide telehealth benefits at no cost to participants before the satisfaction of the minimum HDHP deductible without causing a participant to lose HSA eligibility. This relief only applied for plan years beginning on or before December 31, 2021, and was unavailable for plan years beginning on or after January 1, 2022.

Now, under the CAA 2022, this relief will once again be available from April 1, 2022 through December 31, 2022. Also, it should be noted that this relief is now optional—employers and plan sponsors do not have to adopt this relief for their HDHP plans if they do not want to. Also, these telehealth benefits do not need to be “preventive,” or related to COVID-19, to qualify for the relief.

As background, and as many employers and plan sponsors are aware, offering a telemedicine benefit in conjunction with an HDHP can potentially be problematic because, unless structured properly, the telehealth benefit may jeopardize the HSA eligibility of participants in the HDHP. More specifically, providing no cost, or below cost, access to a telemedicine benefit to participants in a HDHP before the participant satisfies the Internal Revenue Code’s minimum deductible for HDHPs, will result in participants in the HDHP becoming HSA-ineligible.

While there are some solutions to this issue such as charging participants the “fair market value” for any telehealth benefit that a participant uses before satisfying the minimum deductible, or excluding HDHP participants from accessing the telemedicine benefit, these can be difficult to implement.

## Is Retroactive Relief Allowed? Can we Apply this Rule to the Period of January 1 through March 31, 2022?

No. The language of the CAA 2022 does not allow for this relief to be applied retroactively, that is, the relief does not apply for the time period of January 1 through March 31, 2022.

## What Should Employers and Plan Sponsors Do Next? Do we need to amend our Plan Document to Take Advantage of this?

Employers sponsoring fully-insured plans should discuss these rule changes with their insurance carrier to determine how these changes will be implemented. Employers with a self-insured plan should work with their third party administrator and stop-loss provider to discuss how they want to take advantage of the relief.

Nothing in the law expressly requires that the plan document for the HDHP be amended to reflect this extension of this relief, but to the extent that a change is being made to the plan to take advantage of the relief, this change should be communicated to all HDHP participants. ■

**If you have any additional questions,  
please call your Corporate Synergies  
Account Manager or 866.CSG.1719.**