COMPLIANCE ADVISOR

UBA EXPERT COMPLIANCE RESOURCES

Continuing Appropriations Act Extends HDHP Relief for Telehealth Services

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President Biden last week signed the Continuing Appropriations Act, 2023 (CAA 23) to provide funding for the federal government through the current fiscal year. But employers also should know there were some critical benefits-related provisions tucked into CAA 23.

Though many of the benefits sections of CAA 23 related to qualified retirement plans, the law also provides some relief to employers with high deductible health plans (HDHPs) that provide telehealth services on a pre-deductible basis. CAA 23 will extend recent COVID-19 guidance that permits certain telehealth and remote service benefits to be provided on a first-dollar basis under an HDHP. CAA 23 will allow participants to receive such benefits without disqualifying them from being eligible for health savings account (HSA) contributions.

Telehealth Coverage and HSAs

General HSA eligibility rules prohibit anyone who has group health coverage other than under an HDHP – such as first-dollar coverage for telehealth services -- from making or receiving contributions to an HSA. Relief has been in place under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and CAA, 2021 that prevents first-dollar telehealth coverage under an HDHP from being deemed disqualifying, but it was set to expire after December 31, 2022. CAA 23 extends relief through plan years starting after December 31, 2022, but before January 1, 2025. Thus, employers may elect to provide these services in their plans for another two years.

Plan sponsors choosing to offer telehealth benefits must be sure all relevant plan documents and employee communication include them. Also, in what might be an unintentional oversight by lawmakers, non-calendar year plans should cautiously approach extending coverage for remaining months in the current plan year (i.e., months starting January 1, 2023). These employers may need to wait until the start of the next plan year, as it appears the CAA 23 relief would not apply to those months absent further guidance.

Also, given how late in the year Congress passed CAA 23, calendar year plans might already have dropped the coverage for 2023. Plans that wish to reinstate the coverage would have to clearly communicate the change and likely later issue a summary of material modification containing the change.