12/18/25 Alert 2025-05 **Employee Benefits Compliance**

IRS Issues Guidance on HSA Relief for Telehealth and Direct Primary Care Service Arrangements

Introduction

On December 9th, 2025, the IRS issued Notice 2026-5 (the Notice) to provide guidance on the expansion of health savings accounts (HSAs) enacted as part of the One Big Beautiful Bill Act (OBBBA or the Act), specifically relating to the availability of telehealth and direct primary care services for HSA-eligible individuals. This Notice clarifies key definitions and provides guidance on how telehealth and direct primary care services must be structured to maintain HSA eligibility, as summarized in pertinent part below. The Notice also addresses when certain individual market coverage, including Bronze and Catastrophic plans, may be treated as high-deductible health plans – provisions that apply to the individual market, discussion of which exceeds the scope of this Alert.

Background

For quick background, HSAs are individual accounts that can receive tax-favored contributions to pay for certain eligible medical expenses so long as the individual is covered under a high-deductible health plan (HDHP) and has no disqualifying coverage. Under these rules, the HDHP cannot provide benefits until the minimum annual deductible is satisfied, and any arrangement that does provide benefits below that deductible, with certain exceptions, constitutes disqualifying coverage. Access to disqualifying coverage will make an individual ineligible to contribute to an HSA. As the health care vendor marketplace evolves to address both cost of and access to coverage, the HSA eligibility rules can limit an HSA-eligible individuals' access to certain programs, including both telehealth/remote care and direct primary care services.

The OBBBA—passed on July 4, 2025—sought to address this HSA compatibility issue, among others, and retroactively reinstated and made permanent the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) relief that permitted first dollar coverage of telehealth and other remote care services without impacting HSA-eligibility. (For more information, see Alert 2025-02). In addition, the OBBBA provides that access to a Direct Primary Care Service Arrangements (DPCAs), as defined under the Act, will not impact an individual's HSA-eligibility, and that HSA funds can be used to pay for a DPCA. The telehealth relief was effective dating back to January 1, 2025, while the other provisions become effective starting in 2026. While the information provided in the Notice largely reiterates the OBBBA statutory framework, it does provide some new and helpful guidance as outlined below.

Definition of Telehealth

Telehealth and remote care services has remained legally undefined for years, and this Notice addresses that by providing a definition for telehealth and other remote care services that includes any service on the list of telehealth services payable by Medicare that is published annually by the Department of Health and Human Services under section 1834(m)(4)(F) of the Social Security Act (SSA). That list can be found here. For services not expressly identified, the Notice is somewhat less clear, providing that employers should apply the underlying Medicare telehealth statute, implementing regulations, and related HHS guidance defining "telehealth services" and related terms. Those rules generally define "telehealth services" to include remote visits for professional consultations, office visits, and office psychiatry services, subject to certain rules and contexts. Because this determination depends on the specific facts of each service, additional guidance on how these apply alongside HDHP/HSA plans would be welcomed.

HSA-Eligible Direct Primary Care Arrangement Rules

Direct primary care arrangements (DPCAs) are defined under the OBBBA as an arrangement that provides medical care—defined under section 213(d)—consisting solely of primary care services provided by primary care practitioners, where the sole compensation for the care is a fixed periodic fee. "Primary care practitioner" is defined narrowly under the law as a physician with a primary specialty of family medicine, internal medicine, geriatric medicine, or pediatric medicine, or who is a nurse practitioner, clinical nurse specialist, or physician assistant. The term "primary care services" is framed largely by what they do not include, which are: procedures requiring general anesthesia, prescription drugs other than vaccines, and lab services not typically administered in an ambulatory setting. An individual's monthly aggregate fees for a DCPA must not exceed $150 (or $300 for an arrangement covering more than one individual), adjusted annually for inflation.

As it relates to DCPAs, the Notice provides that in order for a DCPA to be compatible with an HSA, the cost for the arrangement must be limited to the fixed fee, and it cannot provide additional health care items and services contingent on membership that are billed separately. The Notice also provides some flexibility in how DPCA arrangements are billed, clarifying that DCPA can be billed monthly, and also at periods of more than a month, but no more than a year. Regardless, the amount billed cannot exceed the monthly limit on an annualized basis. In addition, the Notice clarifies that DPCA fees do not count towards the participant's annual deductible or out of pocket maximums for the HDHP, and—importantly—that any program that goes beyond the services defined above will cause a loss of HSA-eligibility. This last note will be key for employers to understand as they evaluate the various DPCAs in the marketplace.

Finally, the Notice requests written comments by March 6, 2026, which allows stakeholders to seek further clarification on some of these issues, and potentially certain others that were not included here.

Employer Action Item

Employers looking to take advantage of telehealth or DPCA arrangements alongside an HSA compatible HDHP plan should review and understand the content of this Notice. Certain point solutions and vendor programs currently available may seek to characterize themselves as DPCAs, and employers should evaluate those solutions with this guidance in mind. We will keep you apprised of any developments after the comment period ends and, in the meantime, please reach out to your Alliant account team and compliance resources for help navigating these new topics.