BENEFITS BUZZ

Telehealth Coverage for HDHPs Extended

A spending bill signed into law on March 15, 2022, extends the ability of high-deductible health plans (HDHPs) to provide benefits for telehealth or other remote care services before plan deductibles have been met without jeopardizing health savings account (HSA) eligibility. This extension applies to any telehealth services from April 2022 through the end of the year.

Background

HSA contribution rules limit the types of health coverage that eligible individuals may have. As a general rule, telemedicine programs that provide free or reduced-cost medical benefits before the HDHP deductible is satisfied are disqualifying coverage for purposes of HSA eligibility.

However, effective in 2020, for plan years beginning before 2022, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) allowed HDHPs to provide benefits for telehealth or other remote care services before plan deductibles have been met. This meant that HDHPs could provide coverage for telehealth services before the minimum deductible was reached without jeopardizing plan participants' eligibility for HSA contributions. This rule expired for plan years beginning in 2022.

Impact of the Extension

Under the extension, HDHPs may choose to waive the deductible for any telehealth services from April 2022 through the end of 2022 without causing participants to lose HSA eligibility. This provision is optional; HDHPs can continue to choose to apply any telehealth services toward the deductible.

Note that telemedicine services provided between Jan. 1, 2022, and April 1, 2022, must still be counted toward the HDHP deductible to avoid impacting participants' eligibility for HSA contributions.

Federal Protections for Gender-affirming Care

The Department of Health and Human Services recently issued guidance on federal civil rights protections and health privacy laws that apply to gender-affirming care.

Federal Civil Rights Protections

Affordable Care Act Section 1557 protects a person's right to access health programs receiving federal funds without facing discrimination based on sex, including gender identity. Covered entities refusing to provide treatment to an individual based on

gender identity is prohibited discrimination. Similarly, restricting a person's ability to receive medically necessary gender-affirming care solely based on their sex assigned at birth or gender identity likely violates Section 1557.

Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act protect individuals with disabilities from discrimination in programs receiving federal funds or in state and local government programs. Gender dysphoria may qualify as a disability under these laws. Thus, restrictions preventing otherwise qualified individuals from receiving medically necessary care based on their gender dysphoria may also violate these laws.

Federal Health Privacy Laws

The Health Insurance Portability and Accountability Act (HIPAA) prohibits the disclosure of gender-affirming care that is protected health information (PHI) without an individual's consent, except in limited cases. The HIPAA Privacy Rule allows, but does not require, covered entities to disclose PHI without an individual's consent when required by another law.