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LAW & POLICY

Health & Welfare Compliance Services

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IRS Issues Update on Recent HSA Expansion

IRS releases Notice 2026-5 providing clarifying information on recent HSA guidance

IRS Notice 2026-5, issued on December 9, provides guidance on the expansion of Health Savings Accounts (HSAs) under the One Big Beautiful Bill Act (OBBBA). As a reminder, key HSA expansions under the OBBBA include permanently allowing telemedicine and remote care services before meeting the high deductible health plan (HDHP) deductible while remaining HSA-eligible, permitting individuals in certain direct primary care (DPC) arrangements to contribute to HSAs and use funds tax-free for periodic DPC fees, and designating bronze and catastrophic plans available through the Exchange as HSA-compatible regardless of HDHP requirements.

Telemedicine changes

Generally, to be eligible for HSA contributions individuals cannot be covered by a health plan that provides benefits, except for certain preventive care, before the IRS minimum HDHP deductible is satisfied for the year. Individuals who were covered by telemedicine programs that provided free or reduced-cost medical benefits were historically not eligible for HSA contributions. The OBBBA made permanent prior temporary relief that allowed HDHPs to waive the deductible for telemedicine services without impacting HSA eligibility. The Notice clarifies which telemedicine services qualify for deductible exceptions and specifies that in-person services, related medical equipment, and drugs furnished in connection with those services generally **do not qualify** for such exceptions. Additionally, the Notice confirms that individuals enrolled in plans covering telemedicine before the OBBBA's enactment may still contribute to HSAs for 2025, regardless of contribution timing.

Direct primary care updates

The guidance further defines qualifying DPC arrangements for HSA purposes, excluding those that bill separately for services (such as by charging an additional fee in addition to the monthly DPC fee) or those that provide non-primary care services, no matter if members utilize those other services. The Notice clarified that a DPC arrangement may include a design that allows fixed periodic fees billed for up to a year within set limits. Additionally, an HDHP cannot offer primary care

Highlights

Overview

IRS issued Notice 2026-5 providing guidance on several key HSA changes that occurred in the One Big Beautiful Bill Act, including information on

- Telemedicine and remote care services;
- Direct primary care arrangements; and
- Expanded qualified HDHPs.

Key Provisions

- Permanent relief excluding telemedicine as disqualifying coverage for HDHP/HSA purposes retroactive to January 1, 2025.
- Excluding DPC arrangements that charge fees other than a fixed periodic fee, or those that provide non-primary care services regardless of usage.
- Guidance on HSA distributions for certain DPC expenses.

Employer Action Items

Employers should seek the assistance of appropriate advisors to consider whether, how, and when to implement any changes to their benefits.

Certain changes may require revisions to plan materials and trigger certain disclosure requirements.

benefits other than those specifically allowed (telemedicine and preventive care) for a DPC arrangement without a deductible or before the minimum deductible has been satisfied. For those individuals who are enrolled in both an HDHP and a DPC arrangement, the DPC arrangement fees cannot count toward the HDHP's annual deductible or out-of-pocket maximum.

What about paying for DPC with HSA funds?

The Notice also addresses HSA reimbursement rules for DPC fees, stating that employer-paid fees, including those made through pre-tax salary reductions, cannot be reimbursed by an HSA. They are simply compensation excluded from employee's gross income. The Notice also states an individual may be reimbursed from an HSA for qualifying fees paid before the DPC coverage period begins.[1]

Example: Anne may use her HSA to reimburse a substantiated fee for a DPC arrangement that begins on January 1 of that enrollment year even if Anne paid the fee prior to the first day of the DPC enrollment year.

DPC fees exceeding monthly limits[2] will be considered qualified medical expenses eligible for reimbursement by an HSA but will disqualify the individual from making further HSA contributions while enrolled in the DPC arrangement.

Qualified HDHP expansion

Finally, the OBBBA classifies all bronze and catastrophic ACA Exchange plans as qualified HDHPs effective January 1, 2026. The Notice confirms that certain employer-sponsored HRAs (such as individual coverage HRAs – ICHRAs) can be used to purchase these plans without affecting their HSA compatibility, provided the HRA reimburses only premiums and provides no disqualifying coverage.[3]

What next?

While this Notice provides us with some necessary details, many questions remain. Regulators have requested written comments on all aspects of the Notice, due on or before March 6, 2026. So, more information is (eventually) forthcoming. Plan sponsors looking to amend their plans to implement the above changes should consult with the applicable appropriate advisors and ensure all plan documentation is updated.

[1] An HSA is permitted to treat an expense for a DPC as incurred on 1) the first day of each month of coverage on a pro rata basis, 2) the first day of the period of coverage, or 3) the date the fees are paid.

[2] For 2026, the monthly limit for all DPC services an individual receives is $150 for self-only coverage, and up to $300 if the DPC arrangement covers more than one individual. The limits will be adjusted annually for inflation for taxable years after 2026.

[3] This means the ICHRA cannot also reimburse for qualified medical expenses to prevent violating the first-dollar coverage rule in order to help maintain HSA compatibility.

About the author

Stephanie Raborn, J.D. is a Senior Employee Benefits Compliance Officer for Marsh McLennan Agency's Health & Welfare Compliance Services.

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