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New Guidance: When Your Virtual Medical Benefits Can Disqualify Your High Deductible Health Plan

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PRACTICES Employee Benefits and Executive Compensation

The IRS recently issued new guidance clarifying which telehealth and remote care services may be offered by a high deductible health plan ("***HDHP***") before a deductible is satisfied without jeopardizing health savings account ("***HSA***") eligibility. Generally, to be compatible with an HSA, an HDHP can only provide coverage for preventive medical benefits before the HDHP deductible is satisfied, except for certain permitted services such as specified telehealth and other remote care services. In IRS Notice 2026-5, the IRS stated that permitted telehealth and other remote care services include those:

(i) on the list of telehealth services payable by Medicare that is published annually by the U.S. Department of Health and Human Services ("***HHS***") (found here); or

(ii) covered by the definition of telehealth services under Section 1834(m) of the Social Security Act, its implementing regulations at 42 CFR 410.78, and other guidance issued by HHS.

Employers should carefully consider the items and services provided by any virtual care provider to ensure they are compatible with the employer's HDHP. For example, medical equipment or prescription drugs furnished in connection with telehealth or other remote care services cannot be provided before the deductible is satisfied, unless such equipment or drugs qualify as telehealth services under (i) or (ii) above. In addition, employers should also note that some equipment furnished through virtual care arrangements (such as digital scales) may not qualify as medical care at all. In that case, the employer must consider the tax consequences of providing such equipment because it does not fall under the exclusion from income for qualifying medical care expenses.

Notice 2026-5 can be found here.