

12/11/24 Alert 2024-04

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We will continue to monitor these and other issues in 2025.

Election Results Create Regulatory Uncertainty

President Elect Trump returns to the White House in January 2025, and Republicans have a majority in both the House and Senate. The general consensus among stakeholders is that a full repeal of the Affordable Care Act (ACA) is not a priority of the new Administration. That does not mean, however, that all ACA provisions will remain unchanged. The new Administration can, and likely will, make changes to pending regulations under a "regulatory freeze." This could affect the proposed expansion of ACA mandated preventive care and cover certain over the cou is TJEMC ET/Artifact BMC 1 g47.52 268.2 516.0

Telehealth Flexibility for HSA Compatible HDHPs Ends Absent Year End Legislative Extension

The Consolidated Appropriations Act of 2023 (CAA of 2023) included a two-year extension of COVID-era telehealth flexibility for Health Savings Account (HSA) compatible High Deductible Health Plans (HDHPs). Under the extended relief, HDHPs were allowed to provide telehealth services below the plan's required minimum deductible for plan years beginning before January 1, 2025, without causing participants to lose HSA eligibility. This means that calendar year and non-calendar year plans beginning in 2025 can no longer extend this flexibility absent new legislation. While we have heard significant interest in extending this flexibility, legislation has not yet been passed with mere days left before the extension expires. We will continue to monitor this very fluid area of law and report on any legislation related to telehealth flexibility for HSA compatible HDHPs. For more information, see our [COVID Relief Chart at a Glance](#).

Confirm Tobacco Cessation Programs Comply with HIPAA's Required Reasonable Alternative Standard and the Full Reward Rule

Over the past year, more than a dozen large employers have faced litigation challenging a very common wellness program design that requires tobacco users to pay more for health coverage than non-tobacco users (a tobacco use surcharge or tobacco-free incentive). The litigation alleges that the plans did not offer a compliant reasonable alternative standard (or waiver) as required by HIPAA. Most of the targeted employers did allow employees to complete a tobacco cessation program as a reasonable alternative standard, but then only eliminated the tobacco use surcharge or tobacco-free incentive. For more information, see our [Tobacco Cessation Programs and HIPAA's Reasonable Alternative Standard](#).

