

LEGAL UPDATE

IRS Provides Guidance on the OBBBA's Expansion of HSAs



On Dec. 9, 2025, the IRS issued [Notice 2026-5](#), providing guidance on the expanded availability of health savings accounts (HSAs) under the [One Big Beautiful Bill Act](#) (OBBBA), which was signed into law by President Donald Trump on July 4, 2025. The OBBBA's changes expand the availability of HSAs by:

- Permanently extending the ability to receive **telehealth and remote care services** before meeting the high deductible health plan (HDHP) deductible while remaining HSA-eligible;
- Allowing individuals enrolled in certain **direct primary care (DPC) arrangements** to contribute to HSAs and use their HSA funds tax-free to pay periodic DPC fees; and
- Designating **bronze and catastrophic plans** available through an Affordable Care Act (ACA) Exchange as HSA-compatible, regardless of whether they satisfy the requirements for HDHPs.

This Legal Update summarizes these changes and highlights key guidance from Notice 2026-5.

Telehealth and Remote Care Services

To be eligible for HSA contributions, individuals generally cannot be covered by a health plan that provides benefits, except preventive care benefits, before the minimum HDHP deductible is satisfied for the year. Historically, individuals who were covered by telehealth programs that provided free or reduced-cost medical benefits were not eligible for HSA contributions. A pandemic-related relief measure temporarily allowed HDHPs to waive the deductible for telehealth services without impacting HSA eligibility. This relief expired at the end of the 2024 plan year. However, the OBBBA permanently extended the ability of HDHPs to provide benefits for telehealth and other remote care services before plan deductibles have been met without jeopardizing HSA eligibility. This extension applies to **plan years beginning after Dec. 31, 2024**.

Notice 2026-5 confirms that otherwise eligible individuals may contribute to an HSA for 2025 if, before the OBBBA was enacted, the individual was enrolled in a health plan that provided coverage for telehealth or other remote care services before the minimum deductible was satisfied, if the health plan otherwise satisfied the requirements to be treated as an HDHP. This is true regardless of whether the HSA contribution is made before or after July 4, 2025.

Also, Notice 2026-5:

- Addresses the **types of benefits** that are treated as telehealth or other remote care services that may be offered by an HDHP without a deductible; and
- Clarifies that **in-person services, medical equipment or drugs** that are furnished in connection with a telehealth or other remote care service generally cannot be provided by an HDHP without a deductible under this exception.

DPC Arrangements

Effective **Jan. 1, 2026**, the OBBBA expands HSA eligibility by allowing otherwise eligible individuals with DPC arrangements to make HSA contributions if their monthly fees are \$150 or less (\$300 or less for family coverage). These dollar limits will be adjusted annually for inflation. A DPC arrangement is a subscription-based health care delivery model where an individual is charged a fixed periodic fee for access to medical care consisting solely of primary care services provided by primary care practitioners. In addition, the OBBBA treats DPC fees as a medical care expense that can be paid for using HSA funds.

Notice 2026-5 addresses the types of arrangements that qualify as DPC arrangements for HSA eligibility purposes. For example, a DPC arrangement does **not include** an arrangement that:

- Provides certain health care items and services to individuals on the condition that they are members in the arrangement and have paid a fixed periodic fee, but bills separately for those items and services (through insurance or otherwise); or
- Provides services other than primary care services, regardless of whether members utilize those other services.

However, a DPC arrangement may include an arrangement that **has fees that are billed for periods of more than a month, but no more than a year**, provided the aggregate fees are fixed, periodic and do not exceed the monthly limit (on an annualized basis). For example, for 2026, the fee for a single individual could be \$1,800 for a year, \$900 for six months or \$450 for three months.

Notice 2026-5 also addresses how the tax rules for HDHPs intersect with DPC arrangements. For example, an HDHP cannot offer primary care benefits other than those specifically allowed (e.g., telehealth and preventive care) by paying fees for, or providing membership in, a DPC arrangement without a deductible (or before the minimum deductible has been satisfied). For individuals who are enrolled in both an HDHP and a DPC arrangement, the DPC arrangement's fees cannot count toward the HDHP's annual deductible and out-of-pocket maximum.

In addition, Notice 2026-5 provides the following guidance on the reimbursement of DPC arrangement fees from HSAs:

- The fees cannot be reimbursed by an HSA if they are paid by an individual's employer, including if they are paid through pre-tax salary reductions under a Section 125 cafeteria plan;
- The fees may be reimbursed from an HSA before the coverage period for the arrangement (for example, an HSA may immediately reimburse a substantiated fee for a DPC arrangement that begins on Jan. 1 of that enrollment year, even if the enrolled individuals paid the fee prior to the first day of the enrollment year); and
- Fees that exceed the applicable dollar limit (i.e., \$150/\$300 per month for 2026) can be reimbursed from an HSA but will disqualify the covered individual from making HSA contributions while they are enrolled.

Bronze and Catastrophic Plans

To expand the accessibility of HSAs in the individual market, the OBBBA categorizes as HDHPs all bronze plans and catastrophic plans that are available through an ACA Exchange. This change is effective **Jan. 1, 2026**. Bronze plans have the highest deductibles and lowest premiums among the four categories (or metal levels) of individual plans. Catastrophic plans have lower premiums than bronze plans, but they also have very high deductibles. Notice 2026-5 provides that an employer-sponsored health reimbursement arrangement (HRA), such as an individual coverage HRA (ICHRA) or qualified small employer HRA (QSEHRA), can be used to purchase individual coverage under a bronze or catastrophic plan without affecting the plan's status as an HSA-compatible HDHP. However, as a general rule, an HRA (including an ICHRA) is permitted to reimburse only premiums for the HRA to be a health plan that would not disqualify an employee from being an HSA-eligible individual.

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