



Services

[Employee Benefits and Executive Compensation](#)

[Fiduciary Duties and Governance](#)

[Qualified Retirement Plans](#)

[Taft-Hartley Plans](#)

[Health and Welfare Plans](#)

[Government Plans](#)

[Higher Education](#)

[Employee Stock Ownership Programs \(ESOPs\)](#)

[Executive Compensation and Nonqualified Plans](#)

[ERISA and Benefits Litigation](#)

[College Savings and ABLE Plans](#)

[Mandatory Paid and Unpaid Leave](#)

[Audits and Investigations](#)

## Where We Are Now: COVID-19 Testing and Treatment Under High Deductible Health Plans

Individuals must generally meet certain requirements to be eligible to contribute to a health savings account (“HSA”). For example, individuals must be covered by a high deductible health plan (“HDHP”), and not have disqualifying coverage, such as coverage that provides benefits before the minimum deductible is satisfied.

In 2020 the Internal Revenue Service (“IRS”) issued relief for HDHPs. Due to the COVID 19 pandemic and the need to promote testing and treatment, HDHPs could cover COVID 19 related testing and treatment before the HDHP or statutory deductibles were met. The relief allowed HDHP participants to receive COVID 19 testing and treatment before meeting plan deductibles, while still remaining eligible to contribute to an HSA.

In July 2023 the IRS announced that the temporary 2020 relief allowing HDHPs to provide COVID 19 testing and treatment before the deductible is met would expire **December 31, 2024**. Starting January 1, 2025, HDHPs cannot provide COVID 19 testing and treatment before the statutory deductible is met.

The IRS also clarified that COVID 19 tests do not qualify for the preventive care safe harbor. The IRS has released guidance deeming certain screening services as “preventive care.” Preventive care services with an “A” or “B” rating from the U.S. Preventive Services Task Force, such as gonorrhea, hepatitis B and C, and tuberculosis testing, may be covered under an HDHP pre deductible (or without a deductible). However, screening for common and episodic illnesses, such as the flu (and now COVID 19), is not included in the preventive care safe harbor.

The IRS guidance does not specifically require a plan amendment to implement the end of the 2020 relief. However, plan sponsors may nevertheless wish to update their plan documents, summary plan descriptions, and other communications to notify participants of the COVID 19 testing and treatment changes. If you have questions about the coverage changes for COVID 19, or need assistance updating your plan documents to reflect the changes, please reach out to a member of the Kutak Rock [Employee Benefits and Executive Compensation Practice Group](#).

