

Legislative **Check-in**

WHAT YOU NEED TO KNOW REGARDING EMPLOYEE BENEFITS



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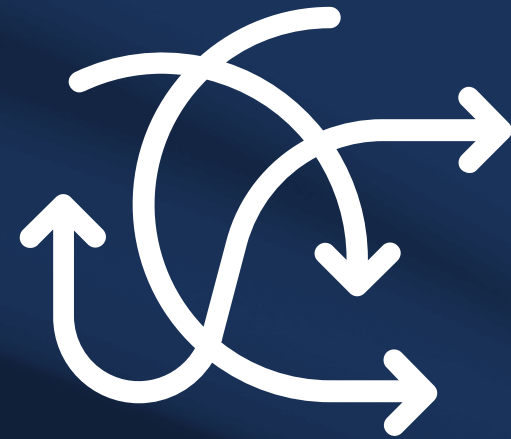


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Welcome

Agenda

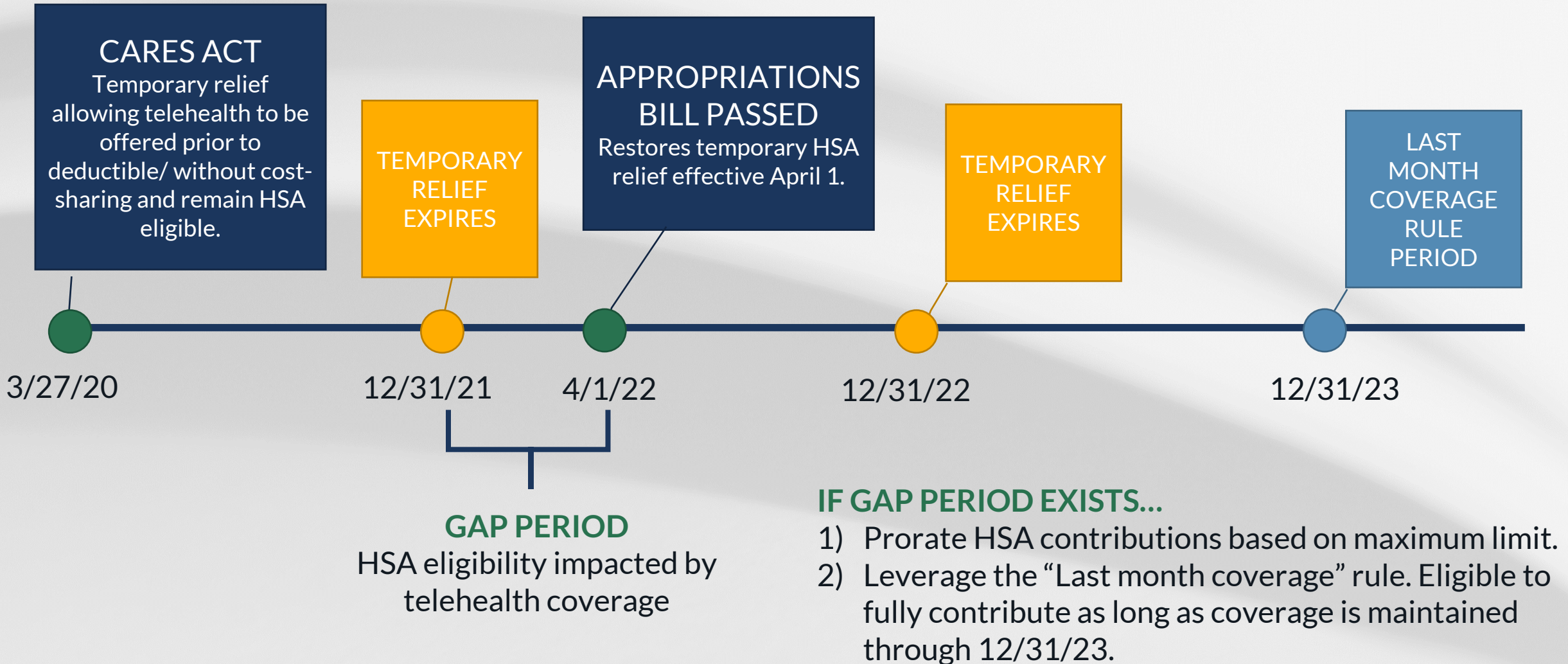
1. HSAs & “other coverage” issues
2. No Surprises Act & Price Transparency Act
3. Mental Health Parity
4. End of the Pandemic
5. Implications of Roe vs. Wade reversal
6. What we might see in the year to come



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HSAs & Other Coverage Issues

HSA Eligibility and Telehealth



State Laws and HSA Eligibility

State mandates regarding coverage can affect HSA eligibility

- 11 states have adopted rules that allow consumers to use coupons to reduce their out-of-pocket expenses at pharmacies but require the health plan to credit the full cost of the drugs towards the deductibles.
- IRS sent letter to Illinois Department of Insurance in April 2021 indicating these programs constitute other coverage, unless exceptions granted from HSA-qualified plans.

States with “coupon” programs which may be affected

- Arizona, Arkansas, Connecticut, Georgia, Kentucky, Illinois, Louisiana, Oklahoma, Tennessee, Virginia, and West Virginia
- Check with state legislature to confirm if (and what) protections in place for HSA-qualified plans.

“Other Coverage” Basics

You cannot receive any benefits (except preventive care) prior to meeting the minimum deductible for an HSA-qualified plan.



HSA Limits for 2023

	Individual	Family
Contribution Limit	\$3,850 (up from \$3,650) + \$200	\$7,750 (up from \$7,300) + \$450
HDHP Minimum Deductible	\$1,500 (up from \$1,400) + \$100	\$3,000 (up from \$2,800) + \$200
HDHP Maximum OOP	\$7,500 (up from \$7,300) + \$300	\$15,000 (up from \$14,100) + \$900

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No Surprises Act & Price Transparency Rules

No Surprises Act



Effective January 1, 2022, the No Surprises Act imposes rules designed to:

1) Keep patients from receiving “surprise” medical bills regarding:

- **Emergency** services
- **Non-emergency** services from nonparticipating providers at participating facilities
- **Air ambulance** services

2) Prevents balance billing for above services (unless otherwise authorized)

There is a current hold / pending litigation regarding the dispute resolution processes and calculation methods regarding the acceptable billing amounts to settle disputes between providers and health plans.

Price Transparency Rules

Transparency in Coverage Act requires plans to publish information (in a machine-readable format) regarding:

- 1) Rates for in-network providers
- 2) Prescription drug rates
- 3) Historical data regarding covered amounts



This was set to begin for plans beginning 1/1/22 or later but has been deferred to plans beginning 7/1/22 or later.

This does not apply to excepted benefits, HRAs and stand-alone retiree health plans

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Mental Health Parity

Mental Health Parity

Mental Health Parity and Addiction Equity Act (MHPAEA)

MHPAEA generally provides that financial requirements (such as coinsurance and copays) and treatment limitations (such as visit limits) for mental health or substance use disorder (MH/SUD) benefits cannot be more restrictive than what applies to medical/surgical benefits.

Report to Congress on MHPAEA gave employers a failing grade.

Labor Secretary Walsh: “The report’s findings clearly indicate that health plans and insurance companies are falling short of providing parity...”

Key notations/findings from the agencies

- Plans and issuers were **unprepared** and potentially **non-responsive**
- Failed to **provide documentation** / meaningful comparative analysis
- Failed to **demonstrate compliance** with nonquantitative treatment limitations

Do you have a mental health parity problem?

- Do you require a mental health diagnosis to leverage mental health benefits?
- Do you have a separate (and/or higher) deductible /co-insurance requirement for mental health services?
- Have you completed and documented a comparative analysis of your benefits?



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End of the Pandemic

What is the emergency?



Public Health Emergency

- Affects coverage mandates
- Authorized by Secretary of Health and Human Services for 90-day period
- Renewed April 16, 2022 until July 15, 2022. Anticipated to review for another 90-days.

National Health Emergency

- Affects outbreak periods such as claims filing deadlines/appeals and COBRA election and premium payment obligations.
- Authorized by President for 12-month period
- Renewed February 18, 2022 until March 1, 2023 (unless ended sooner)

Pandemic Relief Periods

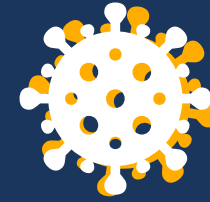
1. Pandemic Relief Periods extend time to submit claims for reimbursement from FSA or HRA. Relief periods expire the lessor of:

- 12 months from the original effective date
- 60 days following the end of the Outbreak Period

2. Pandemic Relief Periods allow for an extended period to elect and pay for COBRA. Relief periods expire the lessor of:

- 12 months from the original effective date
- 60 days following the end of the Outbreak Period

Note: Pandemic is still considered ongoing.



How does Pandemic Relief Period Apply?

Original Deadline	Pandemic Relief Deadline
6/1/2021	New deadline 6/1/2022
2/1/2022	Lessor of: 2/1/2023 (12 months from original deadline) OR 60-days following the end of the Outbreak Period as announced by the Federal Government

NOTE: ERISA plan are required to offer the relief. However, non-ERISA plans have the option.

If the pandemic ends...

Public Health Emergency (currently renewed through July 15, 2022)

- Mandates regarding COVID coverage and testing requirements end
- Safe-harbor for HSA eligibility regarding COVID coverage ends

National Health Emergency (currently renewed through March 23, 2023)

- 60-day grace period is invoked
- Likely communication needed for participants to indicate the deadline change



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Benefits implications to reversal of
Roe vs. Wade

Basics of Roe vs. Wade Reversal

- **The original Roe v. Wade verdict**

- Landmark decision in 1973 in which the U.S. Supreme Court ruled that the Constitution of United States protects a pregnant woman's rights to have an abortion

- **Draft opinion leaked would overturn the original case, which would:**

- End Federal protection of abortion rights
- Allows States to decide whether to restrict or ban abortion
 - Approx. half of states have laws restricting or banning abortion that could take effect
 - Another, one third of states and D.C. have laws protecting the right to abortion
 - Potential resource for [state by state breakdown](#)



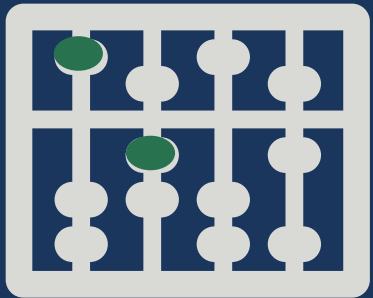
Impact to eligibility of abortion and travel-related expenses

- Reversal of Roe v. Wade does not directly impact the eligibility of abortion and abortion-related expenses.
- A separate ruling from Congress or the IRS would be required to change the eligibility of these expenses under Section 213(d).
- If States move to ban abortions, they could also impose State Tax limitations for these items.

There is no direct impact to the eligibility of services.



Potential Modifications to Benefits



- Expansion of benefits
 - Options to pay for travel-related expenses through Specialty Accounts and/or Health Reimbursement Accounts
- Revisiting abortion coverage
 - What services will be covered?
 - Are out-of-state procedures in-network?
 - Will there be state taxation considerations?
- Restricting or excluding coverage
 - Will abortion be covered? Are there exceptions?
 - Will employees be restricted from using FSA or HRA funds?
- Potential to expand benefits for new-parents
 - Provide additional support for new parents who may have otherwise chosen abortion

**While the instinct is to be proactive,
keep in mind that nothing has been formally released.**

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What we might expect in the year to come

^ hope for

Mental Health

Pandemic has raised awareness for the importance of mental health.

Multiple active bills in the current congress aimed to:

- Raise awareness for mental health resources
- Investment in research regarding mental health and substance abuse disorders
- Improving access to mental health screening
- Addressing racial/ethnic disparities in mental health

H.R. 7666 – Introduced on May 5, 2022 would reauthorize certain programs relating to mental health and substance use disorders set to expire at end of 2022 – extends through 2028.

Senate Finance “Bill of Rights” for Mental Health Services *Draft released May 26, 2022*

- Outlines flexibilities in telehealth that should be made permanent for mental health services
 - Remove in-person requirements
 - Codify reimbursement of audio-only mental health services
 - Create “Bill of Rights” regarding rights to receive telehealth along with approximate cost-sharing obligations.



Retirement Savings

Legislative draft from Senate Health, Education, Labor and Pension Committees

- Proposal called “Retirement Improvement and Savings Enhancement to Supplement Health Investments for the Nest Egg Act” or “RISE and SHINE act”
- **Anticipated inclusions**
 - Provisions for an employer-sponsored emergency savings account
 - An expansion of the multiple employer plan system
 - Increased access to employer-sponsored retirement plans for part-time workers
 - Greater transparency around pensions and their lump sum buyout incentives



Restore/ Modernize Bicycle Commute



Proposed provisions as included in *Build Back Better Bill*:

- Allow the exclusion for qualified bicycle commuting benefits
- Increase the maximum benefit from \$20 per month to \$84 per month (30% of monthly commuter limit)
- Expand the definition of qualified benefit to include bike-sharing services and electronic bikes/scooters going less than 20 miles per hour.

Permanent increase to Dependent Care Limit

Background

- Dependent Care FSA limit of \$5,000 was set back in the 1980's.
- ARPA provided a temporary limit increase to \$10,500 for 2021.
- For 2022, we are back to the \$5,000 limit

Desired Actions

- Permanent increase the limit to \$10,500 and have it index to inflation (as Health FSA, HSA and Commuter Benefits do).
- Improve non-discrimination testing rules (including adjusting the definition for highly compensated employees)



Common Sense HSA changes

Advocacy efforts to remove technical barrier to eligibility

- Allow **Medicare beneficiaries** to participate in an HSA
- Allow people who are eligible to receive healthcare benefits from the **Indian Health Service, Tricare and VA** to participate in HSAs
- Simplify the health plan requirements for enrolling in an HSA
- Permanently allow limited services to be provided prior to the deductible, such as telehealth



Status

Bi-partisan support for many of these ideas,
but will it be prioritized into a Bill that moves forward?

Podcast

- Latest news and happenings in employee benefits .
 - Recent episodes cover: predictions for 2022, legislative outlook, child-care crisis, and mental health in the workplace
- Available through your favorite podcast resource, including:
 - Spotify, Apple Podcasts, Castbox, Podcast Addicts, Pocket Casts



@BenefitsPodcast



Stay on top of the latest happenings!

CLIENT / PARTNER ENGAGEMENT

- Blog posts
- Compliance Alerts
- Educational Information
- Webinars
- Podcast - new March 2022

RECENT RELEASES / RESOURCES

- eBook: HR Pain Points and Challenges (Feb 2022)
- eBook: Tracing Trends in Commuter Benefits (March 2022)
- WEBINAR: Surviving the Great Resignation (Feb 2022)
- WEBINAR: Two Years Later: Lessons Learned from Pandemic (March 2022)
- WEBINAR: How to keep participant informed all year long (APRIL 2022)

BRI
Employees Employers Resources Blog About LOGIN

BRIBLOG
Sharing Information & Opinions on Tax-Free Health & Commuter Benefits

FOUR WAYS TO CHECK YOUR BALANCE
on April 29, 2021

Quickly check your account balance in just a few minutes with one of these four options: Click the image to download 4 Ways to Check Your Balance. CHECK YOUR BALANCE ONLINE Log in to your account online through BRIWEB. Once you log in your accounts will be listed on the navigation menu. Click the name of the plan to view the balance. WHAT IF... [Read More](#)

EMPLOYEE BENEFITS CARD EVALUATION: WHAT TO LOOK FOR
on April 27, 2021

There are a lot of things you should take into consideration when evaluating a third-party administrator (TPA) to partner with. There are obvious things like service, technology, and expertise. But what about their employee benefits card? We're here to tell you that not all employee benefits cards are created equal. When comparing your options, here... [Read More](#)

Pre-tax Legislative Checklist
Action may be required to adopt recent changes

The only constant in 2020 and 2021 was change. There has been a lot of information thrown at you over the last year and we get that it would be easy to miss a thing here or there. This is intended to be a quick reference for key actions and changes.

Action Items	Action
Opt-in to temporary increase to Dependent Care Limit for 2020 and 2021 Plan Years	

WEBINAR
TWO YEARS LATER:
Lessons Learned from a Global Pandemic

After two years, experts say the COVID-19 pandemic may finally have an end in sight. This webinar will explore what we've learned so far, what the data tells us today, and what it means for the future in regards to:

- Benefits and Compensation
- Health Care Utilization
- The Way We Work

FLEXIBLE SPENDING ACCOUNT

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Step 2: Set up your account on BRIWeb!

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Register online today:
Company Code: Provided by your employer
Member ID: Typically 9-digits, assigned by your employer
Personal Info: First name, last name, zip code
Access to email or phone number on file with BRI

Questions? [Contact our Participant Services Team!](#)
Weekdays, 8am-8pm ET

Visit our **NEW** Resource Center!



Thank You!

ANY QUESTIONS?