



How the One Big Beautiful Bill Act Will Impact Health Plans

July 30, 2025

Today's Presenters



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| Agenda

Budget and Tax Legislation Enacted

Litigation

Other Updates and Topics to Watch

Budget and Tax Legislation Enacted

Budget and Tax Legislation Enacted

On July 4, 2025, the President signed into law tax and budget reconciliation legislation called the One Big Beautiful Bill Act (OBBBA or the Act) (Public Law 119-21)

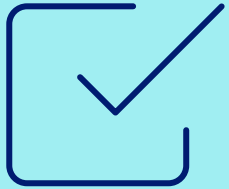


What's Not in the Act

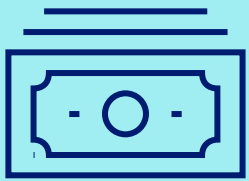
- No changes to the taxation of group health benefits or retirement income benefits
- No extension of enhanced subsidies for ACA Marketplace (Exchange) coverage
- No enhancement to Individual Coverage Health Reimbursement Arrangements (ICHRAAs)



What's Coming Up Next?



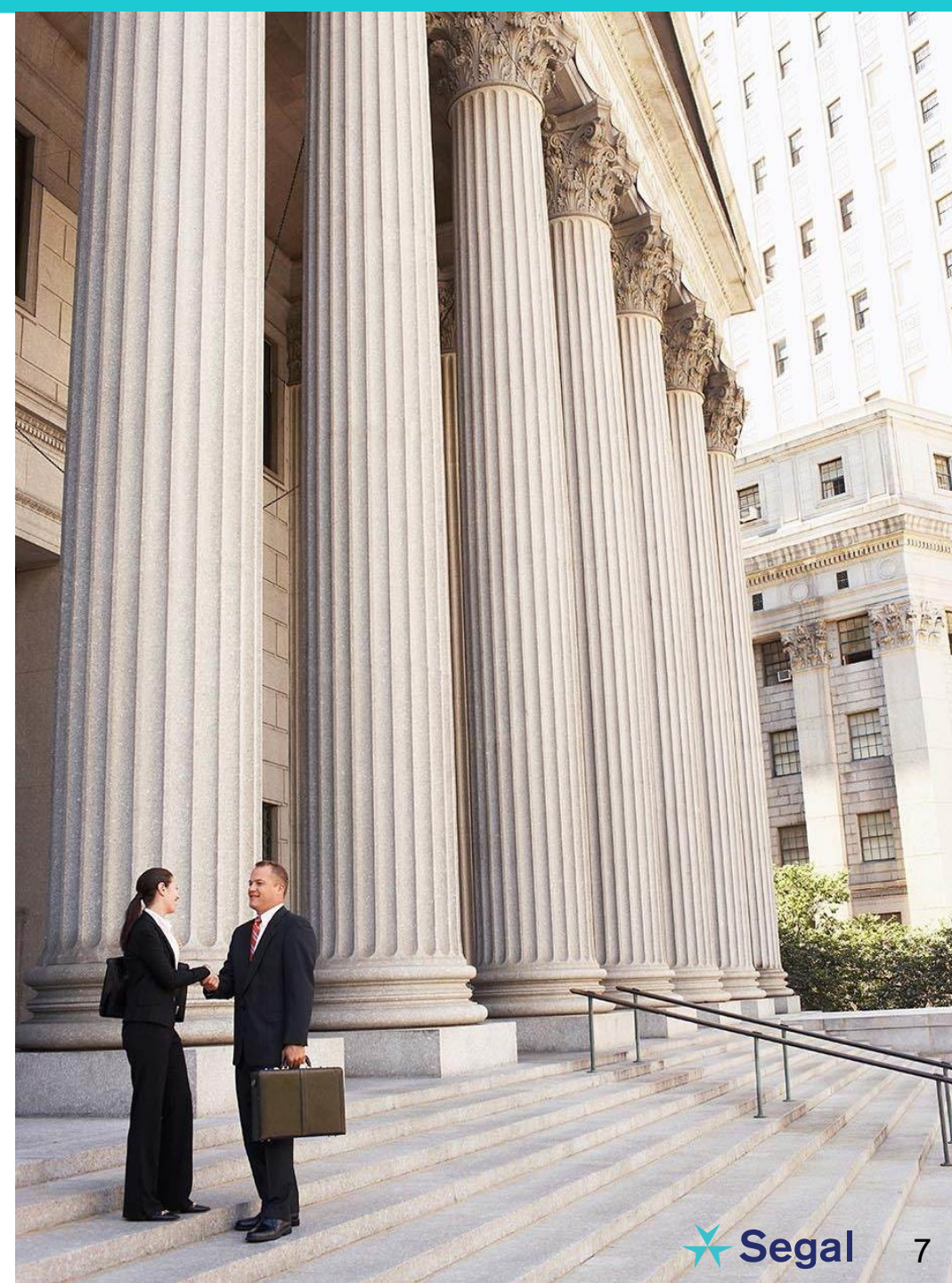
Rescissions Package (signed
July 24, 2025)



Appropriations (September 30)



Technical Corrections



| Health Savings Accounts

Three changes that will expand the use of HSAs

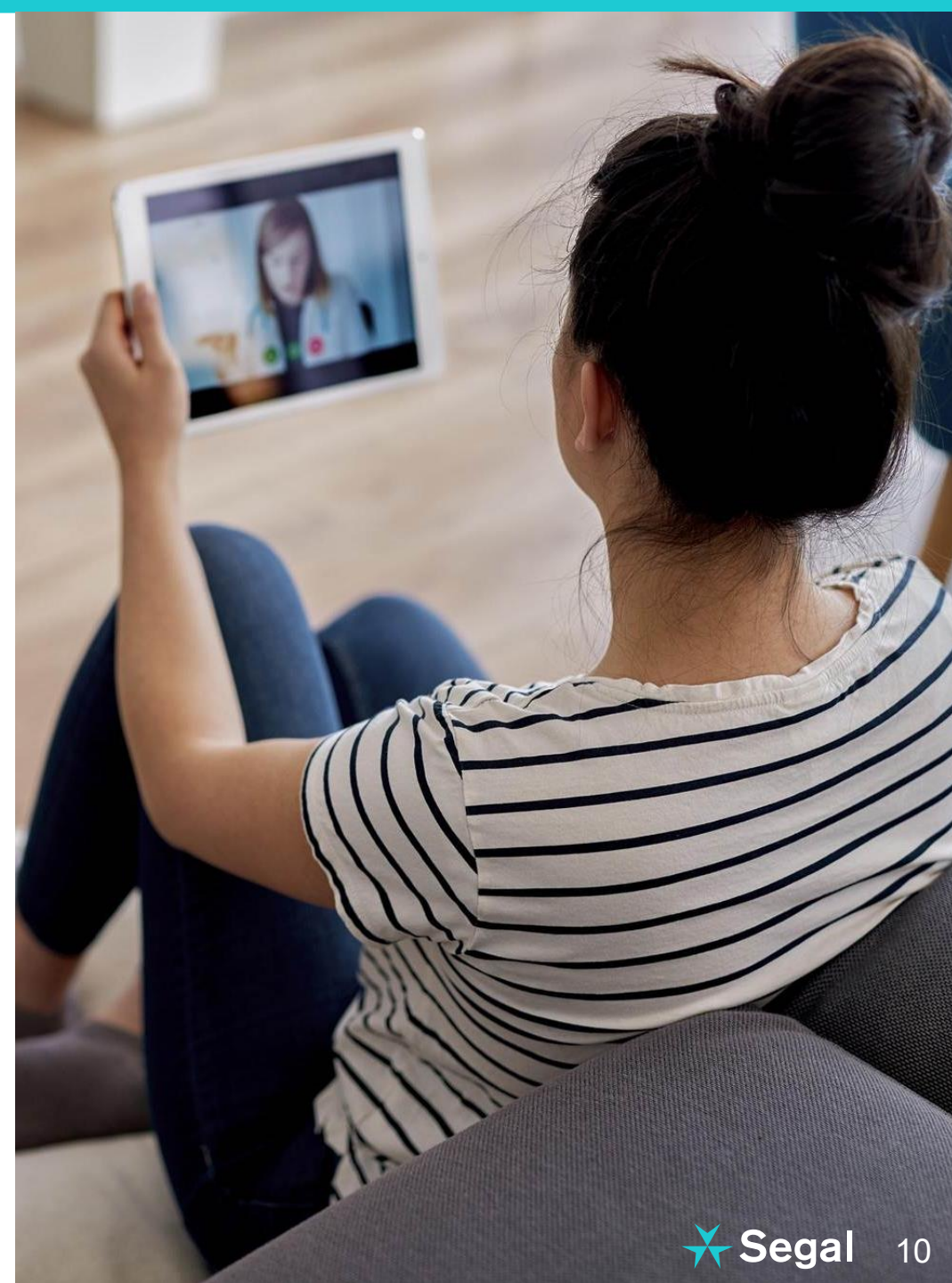
- Permanent and retroactive extension of provision that permits High Deductible Health Plans (HDHP) to cover telehealth and other remote services before the deductible is met
- Bronze and catastrophic ACA Exchange plans qualify as HDHPs for HSA compatibility
- Direct Primary Care Service Arrangements do not bar HSA participation

HSA Changes That Were **Not** in the Act

- “Other health plans” that would have no longer barred HSA eligibility:
 - Enrollment in Medicare Part A
 - On-Site Clinics
 - Coverage under a spouse’s Health Flexible Spending Arrangement (FSA)
- Additional changes that were not included:
 - Increases in HSA contribution limits for certain individuals based on income
 - Allowing HSA to reimburse expenses 60-days before establishment of the HSA
 - Allowing both spouses to make catch up contributions to same HSA
 - Allowing HSA to pay for qualified sports and fitness amounts
 - Allowing limited rollovers of amounts in HRAs and FSAs to HSAs

Telehealth

- During the COVID-19 pandemic, the CARES Act allowed HDHPs to cover telehealth services before the participant has met their deductible. This relief expired at the end of 2024
- The Act permanently and retroactively extended the opportunity for HDHPs to have telehealth services covered first-dollar before the deductible is met for plan years beginning after December 31, 2024
- Plan sponsors can choose whether to permit coverage for telehealth before the deductible is met

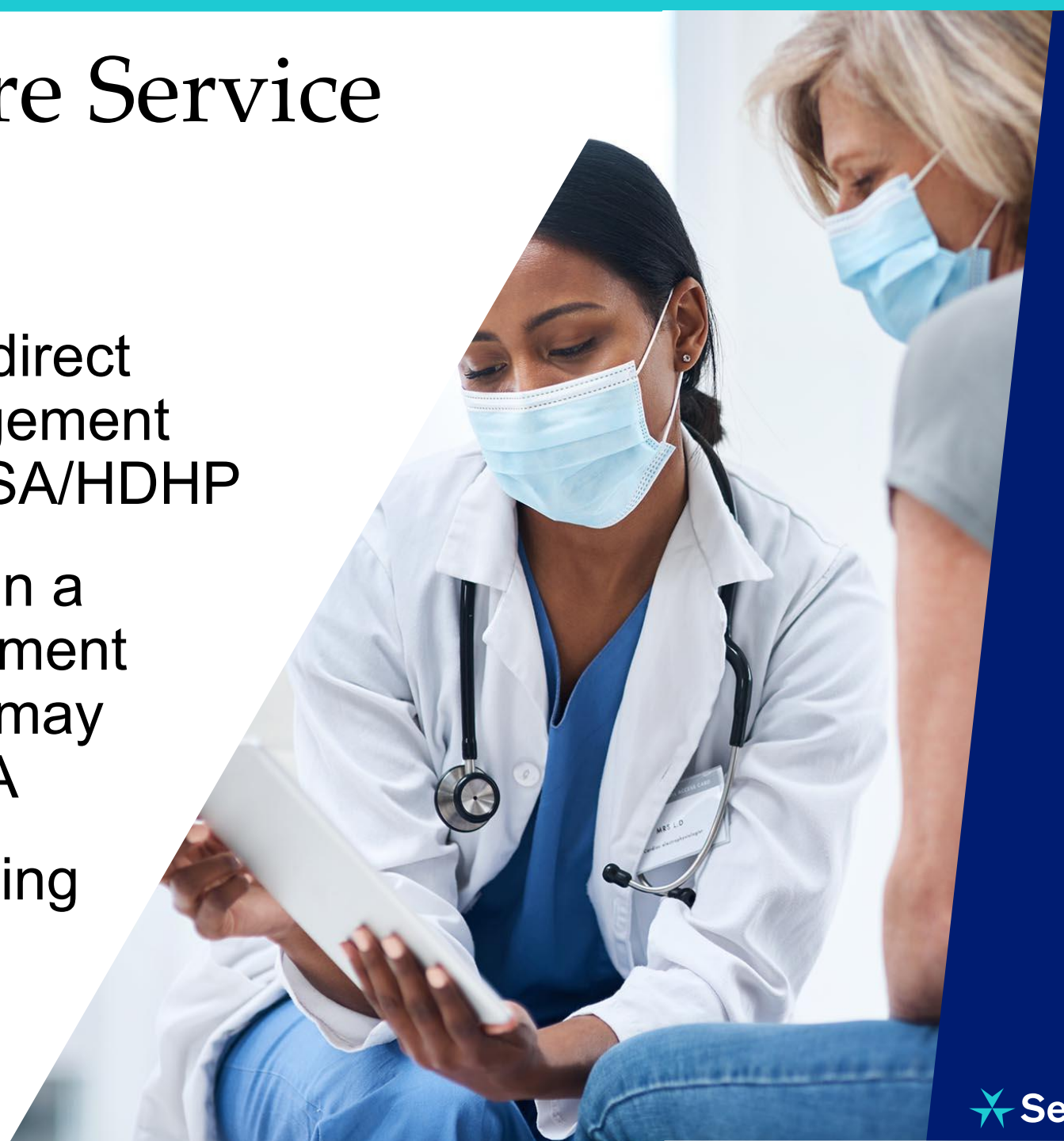


What is a Direct Primary Care Service Arrangement?

- A direct primary care service arrangement consists solely of primary care services provided by primary care practitioners if the sole compensation for such care is a fixed period fee
- Fees cannot exceed \$150 per month for individuals or \$300 per month for more than one person
- Services cannot include procedures that require the use of general anesthesia, prescription drugs (other than vaccines), and laboratory services not typically administered in an ambulatory primary care setting

Direct Primary Care Service Arrangements

- Members may belong to a direct primary care service arrangement and still participate in an HSA/HDHP
- Fees paid for membership in a direct primary care arrangement are medical expenses that may be reimbursed from an HSA
- Effective for months beginning after December 31, 2025



Employer-Provided Fringe Benefits

- The Act modifies several exclusions for employer-provided fringe benefits for tax years beginning after December 31, 2025:
 - Qualified bicycle commuting expense reimbursement terminated
 - For transportation benefits other than bicycle commuting, the Act adds an additional year of inflation adjustment
 - Qualified moving expenses reimbursement terminated, except for active-duty members of the Armed Forces and members of the Intelligence Community



Employer-Provided Fringe Benefits

- Current law permits tax-free employer educational assistance payments up to \$5,250 annually under IRC Section 127
- The Act makes the student loan reimbursement part of the exclusion permanent
- It also indexes the \$5,250 maximum exclusion for taxable years beginning after December 31, 2025



DCAP Exclusion Increased

- Under current law, the maximum exclusion for an employer-provided Dependent Care Assistance Program (DCAP) under Internal Revenue Code Section 129 is \$5,000 (\$2,500 for a married individual filing separately)
- The Act increases the exclusion to \$7,500 annually (\$3,750 for a married individual filing separately), effective for taxable years beginning after December 31, 2025
- The Act also enhances the child and dependent care tax credit, which may be claimed as a credit against tax liability by an individual in lieu of taking the DCAP exclusion



Taxation of Tips and Overtime

The Act provides temporary changes to the taxation of tips and overtime from 2025 through 2028

- Temporarily allows an above-the-line deduction of up to \$25,000 for qualified tips, which is phased out at higher incomes
- Temporarily allows an above-the-line deduction of up to \$12,500 (\$25,000 for a joint return) for qualified overtime compensation, which is phased out at higher incomes

Tax Credits for Employer-Provided Paid Family and Medical Leave

- Under IRC Section 45S, employers that provide paid family and medical leave can claim a tax credit that is a percentage of wages paid to employees while on family and medical leave
 - The percentage of wages is 12.5 percent and increased based on the amount paid to a qualifying employee that exceeds 50 percent of the employee's wages, with a maximum of 25 percent
- The Act makes permanent this paid family and medical leave tax credit and enhances it for taxable years beginning after December 31, 2025
 - The Act allows employers to claim the credit if they have a stand-alone insurance policy for paid family leave benefits
 - It also lowers the minimum employee work requirement to receive the credit from one year to six months

Employers and the PFML Tax Credit

- To claim the tax credit, employers must have a written policy in place that provides for at least two weeks of paid family and medical leave annually to all full-time employees, with paid leave equal to at least 50 percent of the wages normally paid to the employee
- The tax credit is available to employers in all states; however, amounts required under state law or paid for by the state are not taken into account in determining the credit



Tax Credits for Employer-Provided Childcare

Under IRC Section 45F, employers are eligible to receive a nonrefundable tax credit of up to \$150,000 per year based on 25 percent of qualified childcare expenses they provide to employees

- The Act permanently increases the maximum credit, creates a separate credit amount for qualified small businesses, and indexes the maximum credit amounts for inflation
- Effective for amounts paid or incurred after December 31, 2025, the maximum credit will increase from \$150,000 to \$500,000 (\$600,000 for small businesses) with those dollar amounts being indexed for inflation; and the percentage of qualified childcare expenses covered will increase from 25 to 40 percent (50 percent for small businesses)
- The Act also allows small businesses to use a third-party intermediary to provide childcare services on their behalf

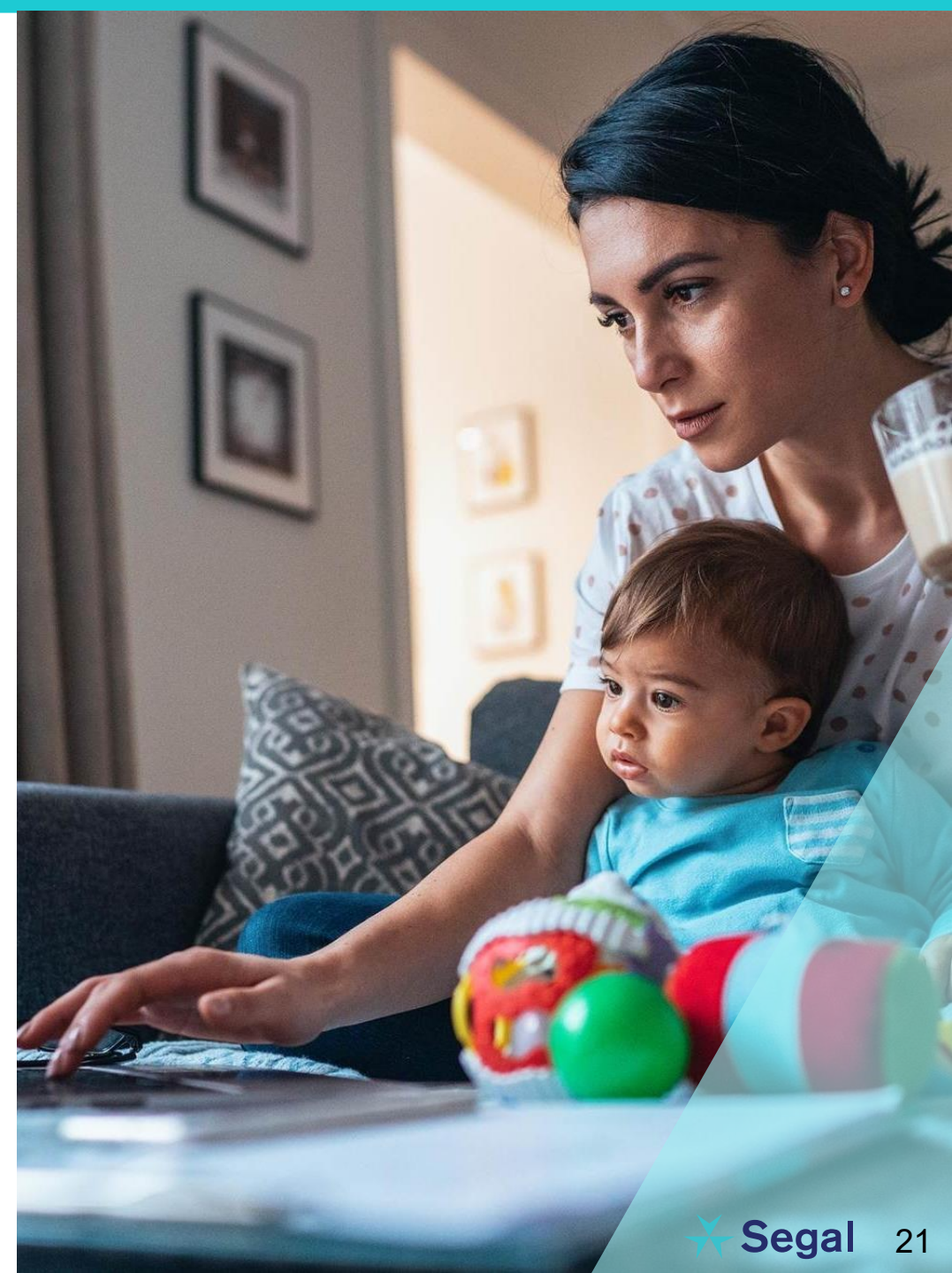
Trump Accounts

- The Act creates a new tax-preferred savings account for children under age 18 called the “Trump Account”
- Beginning January 1, 2026, these accounts will operate like individual retirement accounts that allow earnings to grow on a tax-free basis
- Parents, relatives or other entities may contribute up to \$5,000 annually after tax (indexed for inflation) up to age 18, with exceptions to the maximum for certain entities
- Children who are born from 2025 through 2028 will be automatically enrolled and receive a one-time deposit of \$1,000 from the federal government into their account
- The accounts must be held by a financial institution and invested in a qualified equity index fund



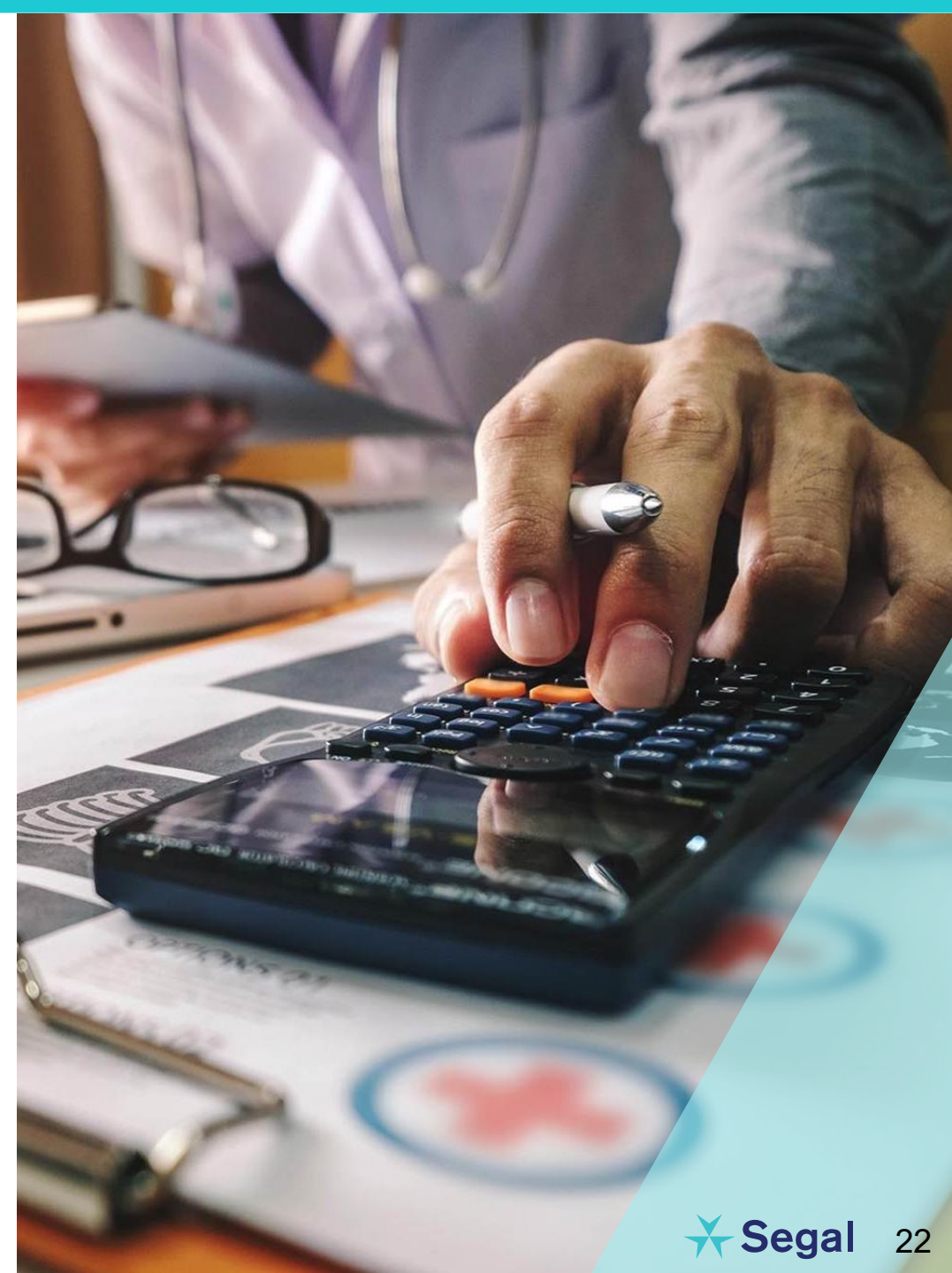
Employer Contributions to Trump Accounts

- Under a new IRC Section 128, employers may contribute to an employee's child's Trump Account on a tax-free basis beginning in 2026
- The employer must have a separate written plan document to make such contributions, and the plan is subject to nondiscrimination rules under IRC Section 129
- Employers may contribute up to \$2,500 for each employee, and that amount is indexed beginning in 2027
- Further regulatory guidance will be forthcoming from the Treasury Department



Impact of Act on the ACA and Medicaid

- The Congressional Budget Office (CBO) estimates that the health sector will lose \$1.1 trillion and that the Act will result in more uninsured people in the year 2034 than would otherwise be the case, including:
 - 10 million more uninsured resulting from Medicaid changes and changes to the ACA Exchange
 - 5.1 million more uninsured with the expiration of the enhanced premium tax credits because of increase in premium costs
- Largest Medicaid cuts will occur in limitations on state provider taxes, work requirements for working-age adults without disabilities or dependents



Impact of Act on the ACA and Medicaid

- Act also includes a five-year, \$50 billion relief fund for rural hospitals and a Medicare reimbursement increase for physicians in 2026
- Group health plans may see increased enrollment and requests for special enrollment as a result of cuts
- Cost impact on plans could be significant



Litigation

Kennedy v. Braidwood Management

In *Kennedy v Braidwood Management*, plaintiffs objected to the ACA requirement that non-grandfathered health plans cover pre-exposure prophylaxis (PrEP) medications at no cost

- Plaintiffs argued that the USPSTF structure violates the Constitution's appointments clause, which requires "principal" officers to be appointed by the president and confirmed by the Senate. Both the district court and the U.S. Court of Appeals for the 5th Circuit agreed. However, the decision only applies to the plaintiffs at this time
- The Administration appealed to the US Supreme Court, and plaintiffs agreed the case should be heard. The Court accepted certiorari on January 10, 2025, for the 2024-2025 term
- The Trump Administration filed a brief with the USSC arguing that the 5th Circuit decision was incorrect
- The oral argument was April 21, 2025



Kennedy v. Braidwood Management

- On June 27, 2025, the Supreme Court agreed with HHS and reversed the decision of the Fifth Circuit.
- The Court held that USPSTF members remain subject to the Secretary of HHS's supervision and direction, are inferior officers, and do not need to be confirmed by Congress
- The Court found that during the one-year period after the USPSTF makes a recommendation, and before it becomes binding on plans, the HHS Secretary may request that the USPSTF reconsider or withdraw a recommendation
- Plan sponsors should continue to cover preventive benefits with no cost-sharing in the same manner they currently do



Litigation

ERISA Preemption

- *PCMA v Mulready* – Oklahoma PBM law found to be preempted by ERISA. US Supreme Court refused to hear the case on July 1, 2025
- *McKee Foods Corporation* – In March, the US District Court for the Eastern District of Tennessee ruled that portions of a Tennessee law that regulated PBMs was preempted by ERISA to the extent the provisions apply to self-insured ERISA-governed plans
- We are watching litigation in Arkansas and Iowa also related to PBM laws



Other Updates and Topics to Watch

Topics To Watch

- Ongoing political confirmations
- Preventive care changes
- Outgrowth of Executive Orders that may impact group health plans
- MHPAEA litigation
- Hot topics in Congress



What We Are Watching on Preventive Care

- Turmoil in vaccine policy
 - Changes to ACIP vaccine schedule for COVID vaccines for pregnant women and children
 - While schedule slightly changed, plans still must pay for COVID vaccines for all adult women and for children for whom vaccine is recommended by their provider
 - If future substantive changes occur, plan must continue coverage through the end of the plan year
- US Preventive Services Task Force
 - Most recent meeting postponed



One Change to Women's Preventive Services Benefits from the HRSA

The current HRSA guidelines require non-grandfathered health plans and issuers to cover, without cost sharing, mammography screening for women at average risk for breast cancer at least biennially and as frequently as annually, beginning no earlier than age 40 and no later than age 50

- On Dec. 30, 2024, HRSA updated its breast cancer screening guidelines to include additional imaging where required to complete the screening process or to address findings on the initial screening mammograph
- Generally beginning in 2026, non-GF health plans and issuers must cover, without cost sharing, the initial mammography plus any additional imaging (e.g., MRI, ultrasound or mammography) or pathology evaluation where required to complete the screening process or to address findings on the initial screening
- Plans will need to review plan documents and check with administrators

Outgrowth of Executive Orders That May Impact Group Health Plans

- **Establishing the President's Make America Healthy Again Commission**
 - Child Health Assessment Report Issued May 22, 2025
 - A Make Our Children Healthy Again Strategy within 180 days (i.e., by August 12, 2025)
- **Expanding Access to In Vitro Fertilization**



Outgrowth of Executive Orders That May Impact Group Health Plans

- **Making America Healthy Again by Empowering Patients with Clear, Accurate, and Actionable Healthcare Pricing Information**
- **Lowering Drug Prices by Once Again Putting Americans First**
 - RFI regarding RX machine readable files
 - FAQ 70
- **Delivering Most-Favored-Nation Prescription Drug Pricing to American Patients**



MAHA Focus: Drivers of Childhood Chronic Disease

- Closer look at ultra-processed food
- Government programs compounding the issue

The Shift to Ultra-Processed Foods

- Chemical exposures
- Unique vulnerability of children
- Corporate influence

The Cumulative Load of Chemicals in Our Environment

The Crisis of Childhood Behavior in the Digital Age

- Decline of physical activity
- Psychosocial factors and mental health crisis

The Over-Medicalization of Our Kids

- Kids on too much medication
- Growth of childhood vaccine schedule
- Mechanisms of corporate capture

Transparency Regulatory Guidance



Request for Information
regarding Prescription Drug
Machine-Readable files



FAQ 70 on Transparency rules

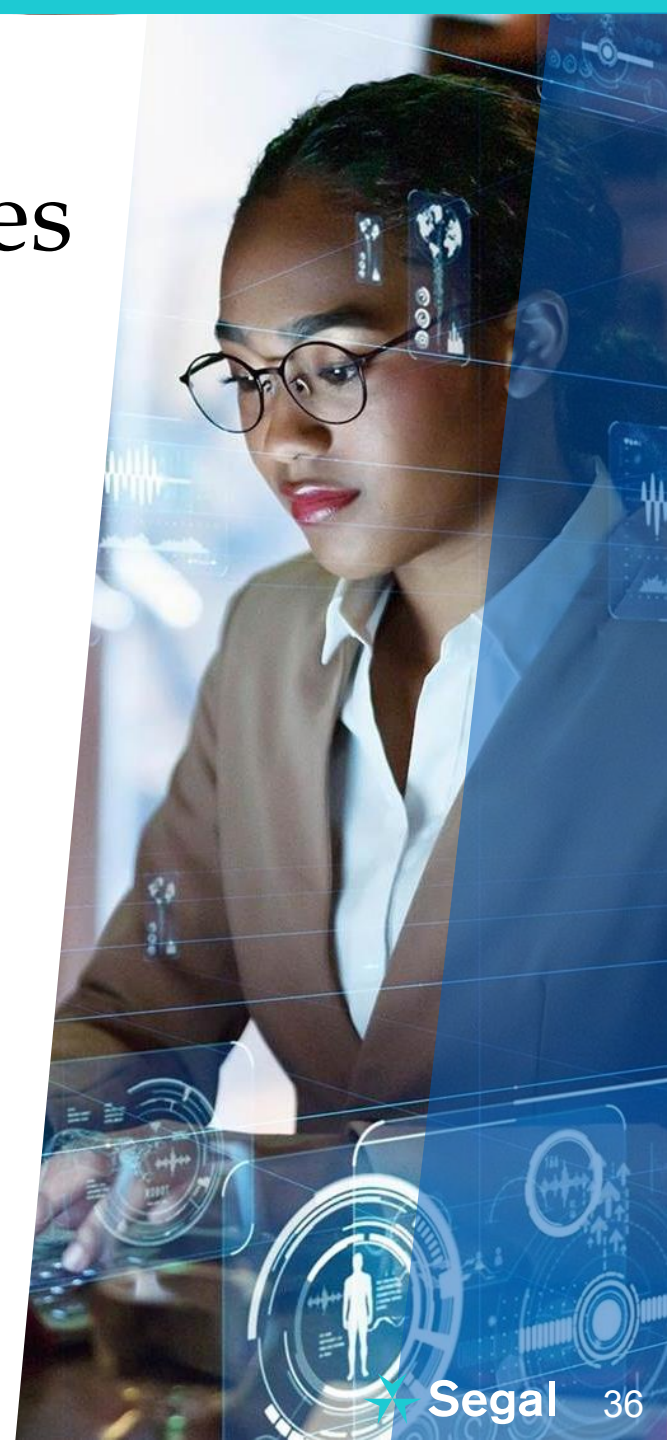


Hospital Transparency changes
and enforcement



RFI Regarding the Non-GF Plan Prescription Drug Machine-Readable Files

- Requirements were delayed for several years based on litigation, implementation difficulties, RxDC reporting overlap
- In support of EO, Departments now seek input on how to effectively implement the prescription drug machine-readable file requirement
- Particularly interested in feedback on required data elements, including potential additional or alternative data elements and a long list of other general implementation concerns
- Comments were due July 2, 2025



FAQ 70 on Transparency Rules

- Non-grandfathered plan sponsors and insurers have been required to published MRFs on in-network claims and OON allowed amounts and billed charges since 2022
- Departments intend to address concerns regarding the MRFs related to accessibility due to file size, data integrity, and a lack of critical context that limits full transparency
 - They will release schema version 2.0 which will implement revised technical requirements on GitHub
 - They intend to finalize the schema version 2.0 on October 1, 2025
 - Plans have four months to complete updates, with a compliance deadline of **February 2, 2026**

MHPAEA Litigation

- Final regulations published on September 23, 2024
 - Staggered applicability dates for plan years on or after January 1, 2025, and January 1, 2026
- The ERISA Industry Committee (ERIC) filed litigation challenging the 2024 final regulation on January 17, 2025, against the US Departments of Health and Human Services, Labor, and Treasury in the United States Court of Appeals for the DC Circuit
- The lawsuit alleges that the rule exceeds the Departments' authority under the MHPAEA and CAA, violates the Due Process Clause of the Fifth Amendment, is arbitrary and capricious, and otherwise violates the Administrative Procedure Act
 - Also alleges that the effective date for many of the Final Rule's provisions is arbitrary and capricious because it did not leave enough time for plans to come into compliance with the entirely new, vaguely worded regulations
- The federal Departments responded seeking an abeyance, which was granted by the Court on May 12, 2025.

More on MHPAEA Litigation

- Departments sought the abeyance in light of their plans to reconsider the final regulations
- On May 15th the Departments issued a statement regarding enforcement indicating that they will not enforce the provisions of the 2024 Final Rule that were set to become applicable for plan years beginning on or after January 1, 2025 and 2026 or otherwise pursue enforcement actions, based on a failure to comply with those provisions that occurs prior to a final decision in the litigation, plus an additional 18 months
- The statutory provisions and 2013 final regulations remain in effect and enforceable

Hot Topics in the Administration and Congress

- Unlocking Benefits for Independent Workers
 - *Unlocking Benefits for Independent Workers Act (S. 2210)*
 - *Modern Worker Empowerment Act (S. 2228)*
 - *Association Health Plan Act*
 - *Independent Retirement Fairness Act (S. 2217)*
- Transparency, Rx Pricing, PBM Reform, Expansion of HSAs
- Hearing on Restoring Trust: Enhancing Transparency and Oversight at EBSA



Questions?

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