



MEMO TO: To Our Valued Section 125 (Cafeteria) Plan Clientele
SUBJECT: The Consolidated Appropriations Act of 2020
FROM: Jerry D. Edwards
DATE: January 6, 2021

The Consolidated Appropriations Act of 2020 was signed into law near the end of 2020. Our Office received the following update yesterday afternoon from SHRM. As with the previous legislative update published in May, 2020, the adoption is up to the Sponsoring Employer and Precision Administrators, Inc. will take care of the Plan Document changes as needed provided the Sponsoring Employer adopts the changes.

The following items may be changed:

Unlimited Carry-Overs

Provided the Sponsoring Employer has adopted the 'Rollover' Benefit, all unused amounts in a health or dependent care FSA may be carried over from the 2020 Plan Year to the 2021 Plan Year and from the 2021 Plan Year to the 2022 Plan Year.

Extended Grace Period

When the Sponsoring Employer has adopted the 'Grace' Period, the grace period for a health FSA or Dependent Care FSA for a Plan Year ending in 2020 or 2021 may be extended from 2 ½ months to 12 months.

Election Changes

For Plan Years ending in 2021, participants may prospectively modify their health FSA or Dependent Care FSA contributions for any reason. A similar rule is already in place for Plan Years ending in 2020. Plan Sponsors may, however, decide to limit permitted election changes for health FSAs to avoid overspending in these accounts.

Post-Termination Reimbursement from Health FSAs

An active Employee who stops participating in a Health FSA during 2021 may continue to receive reimbursements from unused amounts through the end of the Plan Year including any Grace Period. Unlike reimbursements available to participants who have elected COBRA coverage following their termination, this rule does not require that the participants make further contributions to access their unspent funds.

Carry Forward for Aged-Out Dependents in Dependent Care FSAs

Although current rules limit reimbursement of qualifying dependent care expenses to children under age 13, the Act provides an extra year for children who 'aged out' during the pandemic. Employers can allow unused dependent care FSA amounts for children until they turn age 14, at least through the end of the 2021 Plan Year.

As we stated earlier, Employers (Plan Sponsors) are not mandated to make these changes, rather they are options to provide Employees additional FSA and Dependent Care assistance Plan flexibility.

Earlier Legislative Relief

In May, 2020, the IRS released two notices which allowed Plan Sponsors to make mid-Plan Year changes for Group Health Plans which allowed Employees during the 2020 Plan Year to adjust pre-tax contribution to health and dependent care FSAs. For Health FSAs with a 'Rollover' Benefit, the guidance increased the carry-over limit for the 2020 Plan Year from \$500 to \$550. For Health FSAs allowing a 2 ½ month Grace Period, it was extended to the end of 2020.

Our Office is looking forward to assisting our Plan Sponsors with questions or to assist in the adoption of the voluntary changes for the 2021 and 2022 Plan Years exclusively. It will be mandatory to '**opt-in**', otherwise all Plan Options will remain unchanged.