



Relief for FSAs in Year-end Spending Bill

Would 2020 be complete without a surprise twist or two? Congress has finally signaled much needed relief for Health FSAs and Dependent Care FSAs in the passage of the year-end spending bill.

What Relief Does the Year-end Spending Bill Provide to FSAs?

The year-end spending bill provides five opportunities for employers to ease concerns over losing FSA funds. In many ways, the guidance temporarily suspends the “use-or-lose” aspect of an FSA. The temporary rule:

- Allows plans to permit Health and Dependent Care Flexible Spending Accounts (FSAs) to carryover unused benefits up to the full annual amount from 2020 to 2021 and 2021 to 2022
- Allows plans to permit a 12-month grace period for unused benefits or contributions in Health and Dependent Care FSAs for plan years ending in 2020 or 2021
- Temporarily extends the maximum age of eligible dependents from “under 13” to “under 14” for Dependent Care FSAs
- Allows plans to permit a prospective change in election amounts for Health and Dependent Care FSAs for plan years ending in 2021
- Allows Health FSAs to pay expenses for terminated employees that had unused benefits at the time of term

What is the Status of the Year-end Spending Bill?

The House passed the bill on December 21, 2020. The Senate then passed the bill a few hours later. While early indications signaled President Trump was expected to sign the bill, on December 22, 2020 the President expressed his dissatisfaction and has put the status of the bill and its contents into question.

What do Employers Need to Do?

This relief, offered for the 2020 and 2021 plan years, opens new options for employers regarding their Health FSA and Dependent Care FSAs. This means that employers will have some decisions to make in the coming weeks (and potentially months). Key decisions employers will need to make:



1. How will the end of the year be handled?

Employers can choose to either permit the rollover of funds from one plan year to the next or to provide a grace period of up to 12 months. These options are available for both Health FSAs and Dependent Care FSAs for the 2020 and 2021 plan years.

2. Will prospective changes be allowed?

Employers can allow participants to make prospective changes to their elections. This means, for 2020 and 2021 plan years, election changes could be made without a qualifying event. Employers will need to determine if changes will be permitted on an ongoing basis. They may also find it beneficial to extend current open-enrollment or hold a mini-open enrollment session to permit changes.

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