

Benefits Bulletin

May 15, 2020

Increase to Health FSA Carryover Limit

The IRS announced on May 12, 2020, an increase to the carryover limit permitted of Health Flexible Spending Arrangements (FSAs). This increase is not provided in response to the COVID-19 public health emergency, nor is it a temporary adjustment. Employer-sponsors may adopt the increase beginning with FSA plan year 2020.

Inflation-Adjusted Increase

Under the rules of the Internal Revenue Code, an FSA can be drafted to allow participants to carry over unused amounts from one plan year to the next. The amount that can be carried over was, to date, capped by the IRS at \$500. However, pursuant to a 2019 executive order and indexing for inflation, the maximum carryover amount is increasing by \$50. Thus, the maximum amount that a participant may carry over from FSA plan year 2020 into plan year 2021 is \$550.

Aside from this increase, the rules regarding carryovers remain unchanged. An FSA is not required to incorporate a carryover feature but if it does, it cannot also provide a grace period. Further, the same carryover limit must apply to all plan participants.

The increase is not required. Employers may set the plan's carryover maximum at or below the amount allowed within the regulations. It is important to note, plans are not required to offer a carryover provision. However, the trend is becoming more common.

Plan Amendments

Normally, an FSA must be amended no later than the last day of the plan year in which the change is to take effect. However, in coordination with special temporary relief provided to FSAs for 2020, the deadline for plan amendments is extended for plan year 2020 changes only.

As a result, an employer-sponsor of an FSA that wishes to incorporate a carryover feature or increase its existing carryover limit for plan year 2020 must amend the plan no later than December 31, 2021. Timely notice to participants will also be required.

For employers deciding to add a carryover benefit or increase their current limit, a plan amendment is required. Some FSA administrators provide plan amendments for a fee or at no cost. Employers seeking other solutions for the amendment (or employee notice), should speak with their agent or other trusted advisor(s) for solutions.

Additional Resources

IRS Notice 2020-33

<https://www.irs.gov/pub/irs-drop/n-20-33.pdf>

IRS Notice 2020-29

<https://www.irs.gov/pub/irs-drop/n-20-29.pdf>