

IRS Issues Cafeteria Plan Relief to Address COVID-19 Pandemic

Key Points

- Cafeteria plans may permit mid-year election changes prospectively, including health and dependent care FSA contributions, to address effects of COVID-19 pandemic.
- Grace period for health and dependent care FSAs may be extended through 2020, even for plans that allow carryovers.
- Employers must notify eligible employees of temporary plan changes, and adopt plan amendments by the end of 2021.

On May 12, 2020, the IRS issued [COVID-19 guidance](#) to allow cafeteria plan sponsors to permit certain prospective mid-year election changes in 2020. Plan sponsors also may extend any grace period for health and dependent care FSAs through the end of 2020. Plans that permit a carryover of unused health FSA amounts, which generally cannot also have a grace period, may adopt a grace period for 2020.

The IRS issued [separate guidance](#) to increase the maximum health FSA carryover amount to \$550, starting with the 2020 plan year.

Mid-Year Elections Permitted to Change Health Plan Enrollment or FSA Contributions

Generally, cafeteria plan elections must be irrevocable during the plan year. Plans may allow mid-year election changes for certain “change in status” events, such as termination of employment or for significant cost changes.

Given the COVID-19 pandemic, cafeteria plan sponsors now may permit prospective mid-year election changes for health coverage as follows:

- Employees who initially declined coverage for this plan year can elect to enroll;
- Currently enrolled employees can switch coverage options, add family members, or drop coverage, if they certify in writing they are or will immediately enroll in other health coverage. The IRS provided a model certification employers can use for this purpose.



by Elizabeth J. Masson

Mid-year election changes to a health or dependent care FSA also are allowed, given employees' limited access to routine health care, and school closures that have affected employees' dependent care needs. Plans may permit prospective mid-year changes in 2020 to revoke or make elections, or change existing elections, under health and dependent care FSAs.

Option to Adopt or Extend Grace Periods for FSAs

Health and dependent care FSA grace periods may be extended through the end of the 2020 plan year, meaning expenses incurred this year can be reimbursed from amounts that otherwise would have been forfeited as of March 15, 2020 (for a calendar year plan). Sponsors of health FSAs that have a carryover feature also may adopt a grace period, for the 2020 plan year only.

Increased Health FSA Carryover Amount

For health FSAs with a carryover feature, the maximum carryover amount is increased from \$500 to \$550, as of the 2020 plan year.

Required Notice to Employees and Plan Amendments

Employers must notify eligible employees of plan changes made under the temporary rules. Plan amendments for these optional changes must be adopted by December 31, 2021, and can be retroactive to January 1, 2020, so long as the plan is operated in accordance with the guidance.

If you have questions, please reach out to your contact in the [Hanson Bridgett Employee Benefits Group](#).

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