

Helpful COVID-19 Related Information for Employers

Legislative announcements and updates related to COVID impact

On May 12, 2020, the Treasury Department and the Internal Revenue Service (IRS) issued two notices to assist with the nation's response to the 2019 Novel Coronavirus outbreak (COVID-19) for § 125 cafeteria plans during calendar year 2020. These notices impact Health Care and Dependent Care Flexible Spending Account (FSAs) -- [IRS Notice 2020-29](#) and [IRS Notice 2020-33](#).

Employers who offer a Health Care FSA and/or a Dependent Care FSA, can now choose to:

1. amend their plans to allow employees to make election changes during calendar year 2020, without the need for a qualifying event.
2. amend their plans to allow the 2020 carryover maximum of up to \$550 for health care FSA.
3. extend their FSA grace period until December 31, 2020.

Note: This guidance isn't mandated and is retroactive to January 1, 2020. You, as the employer, can decide what you want to allow related to your plan offerings.

What's next and how we can help

If you decide to allow mid-year FSA election changes:

1. Update your Plan Document and Summary Plan Description (SPD) – you have until December 31, 2021 to formally amend your plan.
2. Let your PayFlex account manager know.
3. Make your employees aware.
 - If needed, [click here to download](#) a member-facing template to assist with communicating to your employees. Feel free to use this template to deploy to your employees, or add to internal communications, intranet sites, etc.
 - We can also deploy to your employees on your behalf (at no cost). To request a deployment, contact your PayFlex Account Manager. You'll be asked to fill in the placeholder details within the template to help ensure employees have the accurate next steps.

If you decide to increase the health care FSA carryover amount to \$550:

1. Update your Plan Document and Summary Plan Description (SPD) – you have until December 31, 2021 to formally amend your plan.
2. Let your PayFlex account manager know.
3. Make your employees aware.
 - If needed, [click here to download](#) a member-facing template to assist with communicating to your employees. Feel free to use this template to deploy to your employees, or add to internal communications, intranet sites, etc.

- We can also deploy to your employees on your behalf (at no cost). To request a deployment, contact your PayFlex Account Manager.

If you decide to extend your grace period, please know that our PayFlex teams are working together to fully understand the new guidance and its impact.

- We need to consider what's possible via our systems (and operationally) to help ensure a positive client and member experience.
- Once we determine how to best administer an extended grace period, we'll notify you/employers with next steps.
- In the meantime, below are important details to keep in mind:
 - Extending the grace period may impact functionality of the PayFlex debit card. We'll share more information as needed.
 - Extending the grace period will also affect HSA eligibility.
 - If a member is allowed the extended grace period to incur FSA expenses, they won't be eligible to contribute to an HSA through the duration of the grace period.
 - Members with a Limited Purpose FSA won't be impacted.

The following notice includes information related to the recent U.S. Department of Labor and Internal Revenue Service announcement around relief and guidance for employee benefit plans due to COVID impact. Also included below is information to help support your plan document amendment process.

The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) recently announced deadline relief and other guidance under Title I of the Employee Retirement Income Security Act of 1974 (ERISA). This new ruling is designed to help employee benefit plans, plan participants and beneficiaries, employers and other plan sponsors, plan fiduciaries, and other service providers impacted by the coronavirus outbreak.

In addition, the Department of the Treasury and Internal Revenue Service (IRS) announced timeframe extensions affecting participants' rights to healthcare coverage, portability, and continuation of group health plan coverage under COBRA. [Click here to read the full announcement.](#)

This new guidance states that if the following deadlines/timeframes occurred on or after March 1, 2020, these deadlines/timeframes are extended until 60-days after the yet-to-be-announced end of the COVID-19 National Emergency. This period of time is known as the "Outbreak Period".

- Special health plan enrollment periods.
- The deadline for members to notify a health plan of a qualifying event or disability.
- The deadline that a member enrolls in coverage under a health plan.

Specific to Health Reimbursement Arrangements (HRAs), Health Care Flexible Spending Account (FSAs) and Limited Purpose FSAs:

- The deadline a member submits health care claims.
- The deadline to submit an appeal for denied health care claims.

Specific to Consolidated Omnibus Budget Reconciliation Act (COBRA):

- **COBRA Election:** the 60-day deadline to elect COBRA continuation coverage.
- **COBRA Premium Payments:** the 45-day (for the initial payment) and 30-day (for subsequent payments) deadlines to timely pay COBRA premiums.
- **Second COBRA Qualifying Event and Disability Extension Notices:** the 60-day deadline by which qualified participants must notify the plan of certain qualifying events (e.g., divorce or legal separation, a child ceasing to be a dependent under the term of the plan) or disability determination.

- **Benefit Claims and Appeals:** the deadline under the plan by which participants may file a benefit claim (under the terms of the plan), and the 180-day (for group health plans) and 60-day (for other welfare benefit plans) deadlines for appealing an adverse benefit determination.

Helpful FAQs

The department also issued a set of [Frequently Asked Questions](#) (FAQs) on health benefit and retirement benefit issues to help employee benefit plan participants and beneficiaries, plan sponsors, and employers impacted by the coronavirus outbreak understand their rights and responsibilities under ERISA.

COVID-19 Aid, Relief, and Economic Security (CARES) Act information

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, is a package of measures signed into law by the President on March 27, 2020 in response to the COVID-19 pandemic. Within the bill, the following sections may benefit PayFlex members:

Coverage for Telehealth Services with an HSA (Section 3701)

This allows a high-deductible health plan (HDHP) with a health savings account (HSA) to temporarily cover "telehealth and other remote care services" prior to a patient reaching the deductible, without regard to whether the telehealth services relate to COVID-19. This provision is effective immediately for plan years beginning on or before December 31, 2021.

- An individual can have an HSA qualified HDHP which covers "telehealth and other remote care services" before they've met their deductible, without jeopardizing HSA eligibility.

Coverage for Over-the-Counter (OTC) Drugs and Medicines without a Prescription (Section 3702)

This section includes the following two provisions. These OTC changes are effective for expenses incurred after December 31, 2019. These provisions don't have an expiration date.

1. This law allows patients to use Health Savings Account (HSA), Health Reimbursement Arrangements (HRA) and Flexible Spending Accounts (FSA) funds to purchase over-the-counter (OTC) drugs and medicines without a prescription from a physician, if allowed by their plan.
2. This law also adds feminine hygiene products to the list of eligible over-the-counter items.

Coverage for testing and treatment

The Internal Revenue Service (IRS) announced that testing and treatment related to the Coronavirus Disease (COVID-19) can be covered under a high-deductible health plan (HDHP), prior to meeting the annual deductible, without affecting HSA eligibility. Also, keep in mind that members can use their Health Savings Account (HSA) and Flexible Spending Account (FSA) funds to pay for testing and eligible medical treatment related to COVID-19.

2019 tax filing deadline and HSA contributions

The Treasury Department and the Internal Revenue Service (IRS) [announced special tax return filing and payment relief](#). The due date for filing Federal income tax returns and making Federal income tax payments is postponed to July 15, 2020 (from April 14, 2020). This also means, HSA members have until July 15, 2020 to contribute post-tax funds to their 2019 HSA.

Commuter Benefits information

We understand you may get employees asking about their Commuter Benefits. Keep in mind that Transit Authorities have already sent targeted communications and/or posted messages online specific to their transit refund policy exceptions in response to COVID-19. It is up to the transit authorities to see if they will be offering any exceptions to their normal return policy.

Due to the volume of transit authorities that members may be using, Edenred, our transit partner, has recently added COVID-19 Updates and Policies to their home website and the employee commuter ordering platform and should be referenced for the most up to date information.

COBRA information

With many work schedules being disrupted across the country, we understand there are a lot of questions coming in regarding how COVID-19 impacts the timing of Consolidated Omnibus Budget Reconciliation Act (COBRA).

We're prepared to handle the increase in COBRA Qualifying Events as well as increased call volume. The same would hold true for an increase in Direct Billing, if PayFlex provides this service for you. We also understand the COVID-19 virus pandemic may have an economic impact on your business, resulting in a tough decision to reduce your workforce. If you anticipate reducing your workforce, let us know so we can work with you.

How PayFlex is complying with the deadline extension IRS mandate?

- **PayFlex will accept late COBRA elections**, as long as the participant's last day to submit their election was on or after March 1, 2020. Participants must mail their completed COBRA Enrollment Form to the address provided on the enrollment form before or upon conclusion of the Outbreak Period.
- **PayFlex will accept late COBRA premium payment**, as long as the participant's last day to postmark their premium payment was on or after March 1, 2020.
 - For participants whose COBRA accounts were terminated for nonpayment, upon premium receipt COBRA coverage will be reinstated to the paid through date.
 - Premium payment must be postmarked before or upon conclusion of the Outbreak Period.
- **PayFlex will honor and process special enrollment, second COBRA qualifying event and disability extension requests**, if received before or upon conclusion of the Outbreak Period.
- **PayFlex will reinstate participants who have been administratively terminated**, due to non-payment within the standard grace period.
 - Participants who don't pay their premium within the standard grace period will receive a term letter in the normal course.
 - However, terminated participants can reinstate their coverage retroactively by submitting premium before or upon conclusion of the Outbreak Period.
 - PayFlex will retroactively reinstate participants' coverage, to their paid through date, upon premium payment receipt.

PayFlex Systems USA, Inc.

This material is for informational purposes only and is not an offer of coverage. It contains only a partial, general description of plan benefits or programs and does not constitute a contract. It does not contain legal or tax advice. You should contact your legal counsel if you have any questions or if you need additional information. In case of a conflict between your plan documents and the information in this material, the plan documents will govern. Eligible expenses may vary from employer to employer.

Please refer to your employer's Summary Plan Description ("SPD") for more information about your covered benefits. Information is believed to be accurate as of the production date; however, it is subject to change. PayFlex cannot and shall not provide any payment or service in violation of any United States (U.S.) economic or trade sanctions. For more information about PayFlex, go to www.payflex.com.

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