



Coronavirus (COVID-19) and Your Benefit Accounts

The Department of Labor and IRS have released several regulation changes including Notice 2020-23, Notice 2020-29, and Notice 2020-33 which have major implications for cafeteria plans, health benefit accounts, high-deductible health plans (HDHPs), and more. The following outlines some key points for benefit administrators. If desired, contact your Relationship Manager to further discuss these options.

Cafeteria Plans

Mandatory Change to Claim Processing

Cafeteria plans must extend the run out period to submit claims beyond the plan year and continue processing claims during the Government declared Outbreak Period which is March 1, 2020 until 60 days after the announced end of the National Emergency, which will be sometime in the future.

Mandatory Changes to HIPAA Special Enrollment Rights

Normally, plans can require a minimum of 30 days of notice for election changes related to HIPAA Special Enrollment Rights. These rights pertain to the following:

- Non-voluntary loss of health coverage
- Seeking to add coverage due to marriage, birth, or adoption
- Loss of Medicaid or CHIP coverage
- Seeking enrollment in an employer's plan due to gaining eligibility for state premium assistance subsidy from Medicaid or CHIP

During the Outbreak Period, the notice requirement has been suspended. Employees who have a HIPAA Special Enrollment Right event during the Outbreak Period must be allowed to make consistent changes to their benefit, even if it is more than 30 days after the event occurred.

Mandatory Changes to Initial and Open Enrollment Election

Typically, cafeteria plans' participants must make their elections in advance of the plan year. However, initial and open enrollment election deadlines during the period of April 1, 2020 to July 14, 2020 must be extended to July 15, 2020, even if July 15, 2020 occurs after the start of the 2020 plan year. This change will primarily impact plans with open enrollments ending in April, May, June, or July.

Mandatory Change to the Use-or-Lose Rule

The use-or-lose rule is suspended until July 15, 2020 for plans that have their plan year end or grace period end between April 1 and July 15, 2020. Calendar year plans and plans that start after July 15, 2020 will not be impacted by this change.

Midyear Election Changes (Optional with Plan Amendment)

A cafeteria plan sponsor, although not required to do so, may amend its plan to permit employees to make the following prospective mid-year changes to their salary reduction elections:

- Make a new election to participate in employer-sponsored health coverage if they initially declined such coverage
- Revoke a previous election for employer-sponsored health coverage and enroll in other employer-sponsored coverage
- Revoke a previous election for employer-sponsored health coverage by providing in writing that they are covered by non-employer-sponsored coverage
- Revoke an election, make a new election, or increase or decrease an election to a health FSA
- Revoke an election, make a new election, or increase or decrease an election to a dependent care flexible spending arrangement

This special accommodation may apply retroactively to mid-year changes made after January 1, 2020 and expires on December 31, 2020.

Healthcare FSAs and Dependent Care Arrangements

- **Grace Period extension (Optional with Plan Amendment)**

Employers with either the grace period or plan year ending in 2020 may amend their plans to allow employees to use these unused amounts to pay or reimburse medical care expenses or dependent care expenses, respectively, incurred through December 31, 2020. The temporary extension for incurring claims is available to both cafeteria plans that have a grace period and plans that provide a carryover.

***Note:** This extension may be problematic to employees making contributions to an HSA in 2020. Those with unused 2019 FSA amounts as of the date of the grace period could use those funds to pay for healthcare expenses below the HSA-eligible HDHP deductible amount in 2020, thus making them ineligible to make HSA contributions.*

- **Carryover Increase (Optional with Plan Amendment)**

The carryover amount for FSAs has increased from \$500 to \$550 to account for inflation. Employers must adopt a plan amendment by December 31, 2020 to be able to rollover 2020 plan year funds to the 2021 plan year.

Plan Amendments

Plan amendments that allow for the midyear cafeteria plan election, grace period extension, and carryover increase are elective. The amendment can be retroactive to January 1, 2020 but must be adopted by December 31, 2021.

NBS is working on amendment language for these changes. However, if the employer wants to implement these changes into their cafeteria plan and execute the amendment when it is ready, please reach out to your NBS Relationship Manager.

Mandatory changes do not require an amendment.

HSA-eligible HDHPs

- **COVID-19 testing and treatment**

The IRS previously issued Notice 2020-15 which allows HSA-eligible HDHPs to cover COVID-19 testing and treatment at 100% with no cost-sharing to employees even before the deductible is met. The new notice clarifies that this includes expenses incurred after January 1, 2020, as well as which expenses are considered COVID-19 testing and treatment.

- **Telemedicine**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act allows HSA-eligible HDHPs to cover telehealth services at 100% with no cost-sharing to employees even before the deductible is met. The new notice clarifies that this includes telehealth services provided after January 1, 2020.