United States
Office of
Personnel Management
The Federal Government's Human Resources Agency

Benefits Administration Letter

Number: 20-803 **Date: July 1, 2020**

Subject: Sixty-Day Limited Period for Changes to Existing Elections under the Federal Flexible Spending Account Program (FSAFEDS)

Purpose

The primary purpose of this Benefits Administration Letter (BAL) is to announce a 60-day limited period when participants can make mid-year changes to elections under the Federal Flexible Spending Account Program (FSAFEDS). The limited period begins on July 1, 2020 and ends 60 days from July 1, 2020. This ensures that enough time remains in the FSAFEDS plan year to appropriately effect mid-year election changes. This BAL applies to and must be implemented by the agencies that have adopted the Federal Flexible Benefits Plan ("FedFlex"), a cafeteria plan established under Section 125 of the Internal Revenue Code of 1986 ("Section 125 cafeteria plan"). Agencies with their own Section 125 cafeteria plan may allow different elections for their employees on flexible spending accounts.

Background

To assist with the nation's response to the COVID-19 pandemic, Internal Revenue Service (IRS) Notice 2020-29[1] provides increased flexibility with regard to mid-year elections under Section 125 cafeteria plans related to employer-sponsored health coverage, health Flexible Spending Arrangements (health FSAs), and dependent care assistance programs. IRS Notice 2020-29 also provides increased flexibility regarding grace periods to apply unused amounts in certain health FSAs and dependent care assistance programs. IRS Notice 2020-29 acknowledges that the circumstances surrounding COVID-19 have led to unanticipated changes in the need for medical care and dependent care.

As the Plan Administrator of FedFlex, OPM is permitting FSAFEDS participants a 60-day limited period during which certain mid-year changes can be made to their existing elections. Although the COVID-19 pandemic is the reason for these additional flexibilities, participants do not need to be directly affected by COVID-19 and do not need to experience a Qualifying Life Event (QLE) or provide any documentation to make changes as described in this BAL.

[1] Available at https://www.irs.gov/pub/irs-drop/n-20-29.pdf.

FSAFEDS Permitted Changes

Increase or Decrease Election in HCFSA, LEX HCFSA, and DCFSA

During the 60-day limited period, all participants who have enrolled in a 2020 Health Care Flexible Spending Account (HCFSA), Limited Expense Health Care Flexible Spending Account (LEX HCFSA), or Dependent Care Flexible Spending Account (DCFSA) will be allowed to make a one-time change (increase or decrease) in the amount of their annual election in each FSA account in which they are enrolled. In accordance with IRS guidance, the election change is effective prospectively, on the first pay period after approval by FSAFEDS. Accordingly, participants cannot receive a refund of allotments from pay they have already made to their FSA account(s) year-to-date. In addition, participants cannot decrease their election below the amount already allotted to the FSA account OR the amount already reimbursed for eligible expenses, whichever is greater.

Example 1: Luciana Hernández elected $1,500 for her 2020 HCFSA, to be taken in equal allotments for the 26 pay dates in 2020. She would like to reduce her annual election. At the time her newly-reduced election becomes effective, $750 has been allotted and $500 has been reimbursed to her for eligible expenses. Luciana can reduce her election as low as $750, the amount already allotted, as the amount reimbursed is not a greater amount.

Example 2: Trevon Johnson elected the maximum of $2,750 for his 2020 LEX HCFSA. In early January, he had laser eye surgery, and used his entire election amount to help cover the cost, which exceeded his election amount. Trevon cannot reduce his election, since he has already been reimbursed the entire amount for 2020.

Example 3: Sally Williams elected $4,000 to her DCFSA. She would like to reduce her election. At the time her newly-reduced election becomes effective, $2,200 has been allotted and $2,200 has been reimbursed to her (participants in a DCFSA may only be reimbursed up to funds available). She can reduce her election as low as $2,200, the amount already allotted.

For participants who make a change in their election, FSA allotments will be adjusted prospectively and prorated over the remaining pay periods. Therefore, the new allotment amount each pay period will depend on the number of remaining pay periods at the time the change becomes effective.

Example 4: Vihaan Reddy elected $1,300 to his 2020 HCFSA, to be taken in equal allotments for the 26 pay dates in 2020. Vihaan decides to increase his annual election to $2,000 due to increased medical care costs for him and his family. There are 10 pay periods remaining in the year. The amount of his remaining allotments will be calculated as follows:

Current election amount: $1,300
Current allotment amount: $1,300/26 pay periods = $50/pay period
New election amount: $2,000
Amount already allotted year-to-date: $800
Difference: $1,200

New allotment amount: $1,200/10 pay periods = $120/pay period

Example 5: Sam Lee has elected $2,600 to his HCFSA. At the time he submits the change to his election, he has allotted $1,800 and has been reimbursed $1,200. Sam decides to reduce his annual election to $2,000. There are 8 pay periods remaining in the year. The amount of his remaining allotments will be calculated as follows:

Current election amount: $2,600
Current allotment amount: $2,600/26 pay periods = $100/pay period
New election amount: $2,000
Amount already allotted year-to-date: $1,800
Difference: $200
New allotment amount: $200/8 pay periods = $25/pay period

This 60-day limited period to increase or decrease the FSAFEDS election should not be confused with the existing opportunity to increase or decrease DCFSA or HCFSA elections through September 30 based on a QLE such as cost or coverage changes in childcare or elder care, more fully described in BAL 20-802.[2] This 60-day limited period affects both HCFSAs as well as DCFSAs, does not require the participant to establish a QLE, and does not preclude a participant from submitting a QLE change before or after submitting a change during this 60-day limited period, provided the QLE is submitted no later than September 30, 2020.

Extended period to both incur eligible expenses and claim reimbursement of unused 2019 DCFSA amounts until December 31, 2020

Participants who made an election to a DCFSA for the plan year ending December 31, 2019 had until March 15, 2020 (the "grace period") to incur eligible DCFSA expenses. Claims for reimbursement of these expenses were due by April 30, 2020, the deadline for submitting claims from the previous plan year. Any funds not used during the grace period are normally forfeited. An extension of this period is being allowed this year on a one-time basis. Specifically, participants who made an election to a DCFSA in the plan year ending December 31, 2019, will now be allowed to both incur eligible expenses and claim any 2019 funds remaining in their DCFSA account until December 31, 2020. The extended claim period is automatic for qualified participants.[3]

HCFSA and LEX HCFSA carryover amount from 2020 into 2021 increased to $550

IRS Notice 2020-33[4] allows an increase in the carryover amounts for HCFSA and LEX HCFSA from $500 to $550. Participants may now carryover up to $550 of unused amounts in their HCFSA and LEX HCFSA remaining at the end of 2020 into 2021, if they re-enroll for the 2021

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[2] Available at https://www.opm.gov/retirement-services/publications-forms/benefits-administration-letters/2020/20-802.pdf.
[3] DCFSA allotments made in 2020 may be increased or decreased during the 60-day limited period, but the grace period for incurring eligible DCFSA expenses with respect to these funds will expire March 15, 2021 and claims for reimbursement will be due by April 30, 2021.
[4] Available at https://www.irs.gov/pub/irs-drop/n-20-33.pdf.

plan year. This increased carryover amount of $550 will continue in place for plan years beyond 2021.[5]

How to submit election changes

Agency Benefits Officers should direct participants to contact FSAFEDS by visiting www.FSAFEDS.com or by calling 1- 877-FSAFEDS (372-3337) to take advantage of these FSAFEDS Program flexibilities, or for questions and additional information.

Existing FEHB and FEDVIP QLEs

OPM is not authorizing a new opportunity to enroll or make changes in enrollments under the Federal Employees Health Benefits (FEHB) Program or Federal Employees Dental and Vision Insurance Program (FEDVIP). Agencies may not authorize enrollment actions other than those allowed under current FEHB and FEDVIP regulations, regardless of whether they have adopted FedFlex. However, as a reminder, enrollments and changes to enrollment are still permitted due to certain qualifying life events (QLEs).[6] Of particular note, if an employee or family member loses existing coverage (for FEHB, event code 1M), then the employee has the opportunity to enroll or change enrollment, beginning 31 days before the loss of coverage and ending 60 days after the loss of coverage.

Extension of Operational Flexibilities

OPM is extending the operational flexibilities discussed in BAL 20-201[7] past June 30, 2020, as necessary, depending on an agency's operating status.

For questions concerning this Benefits Administration Letter, please contact your Agency's Headquarters Benefits Officer. If you do not know who your Benefits Officer is, please go to https://apps.opm.gov/abo/ where you will find a list of agencies and their Headquarters Benefits Officers.

Sincerely,

Laurie Bodenheimer
Acting Director
Healthcare and Insurance

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[5] The amount of carryover is indexed to inflation, as is the maximum IRS contribution amount to a Flexible Spending Arrangement (currently $2750).
[6] See https://www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/enrollment/.
[7] Available at https://www.opm.gov/retirement-services/publications-forms/benefits-administration-letters/2020/20-201.pdf.