

UPDATE: Compliance Alert: Health Plans and FSAs

This Compliance Alert has been updated to reflect the most recent information from our counsel at Alston & Bird.

In addition to recent federal guidance regarding the suspension of COBRA and FSA/HRA deadlines (as described in our Compliance Alert on April 30), the IRS has released further guidance on changes that can be made to health plans and Flexible Spending Accounts. Please read the Frequently Asked Questions below. If you are not the decision maker for your benefit plans, please share this email with that person at your organization.

All of the following changes are optional and employers may adopt none, some, or all of them. For this reason, we have described them in detail below and have attached a **2020 Flexible Benefit Plan Changes Confirmation Form**. Please check with your insurance carrier or stop-loss provider prior to adopting any of the changes. There is no requirement to adopt any of the following options.

Please complete the attached 2020 Flexible Benefit Plan Changes Confirmation Form if you would like to implement any/all of these options. This form must be signed by a decision maker at your organization and returned to GDI. We cannot formally amend your Plan without receiving this signed form.

Q. What changes can our employees make in respect to our group health plan?

A. The notice provides the following options:

- Prospectively enroll themselves or family members in health coverage without a qualifying event.
- Prospectively change to another health plan option without a qualifying event.
- Prospectively revoke coverage but only if an attestation is provided that the employee is or will be enrolled in other health coverage; the IRS has produced a sample attestation.

Please ensure your carrier or stop loss provider is willing to accept the above changes.
Please check with your dental and vision carriers as to whether they will permit changes.

Q. What changes can our FSA participants make?

A. FSA participants may prospectively enroll, increase, decrease, or revoke FSA elections for any reason.

Q. Can our FSA participants use their newly increased election for services incurred prior to the increase?

A. Yes, participants can use their funds for services incurred at any time during the plan year.

Q. As the employer, can I limit the amount of the decrease in an FSA election?

A. Yes, employers may limit the decrease to the reimbursement already provided. For example, if your employee elected \$2500 and has received \$2000 in reimbursements, you may limit the decrease to \$2000 so that the deductions from paychecks cover the reimbursement received.

Q. Can I refund my FSA participants for any paycheck deductions that they cannot spend?

A. No, a decrease or revocation of the FSA election does not allow a refund of unused funds.

For FSA plans with a Grace Period and that Grace Period ended in 2020

– OR –

For FSA plans with NO Grace Period and the plan year ended in 2020

Q. Can the Grace Period be extended longer than two months and fifteen days?

A. Yes, for a Grace Period ending in 2020, it may be extended to December 31, 2020.

Q. Our plan does not have a Grace Period, can we extend our plan year end date?

A. Yes, a plan year that ends in 2020, that does not have a grace period, may extend the end of the plan year to December 31, 2020.

Q. If we extend our Grace Period, what else does this impact?

A. Extending the Grace Period will have the following impact:

- Your runout period will need to be extended past the end of the Grace Period so that claims can be submitted.
- FSA participants enrolled in a general purpose FSA, and not in a Limited Purpose FSA, are ineligible to make or receive contributions into an HSA.

Q. If we do have not a Grace Period, but we extend our Plan, what else does this impact?

A. Extending the plan year end date will have the following impact:

- Your existing runout period (filing deadline) will be applied to the new plan year end date;
- FSA participants enrolled in a general purpose FSA, and not in a Limited Purpose FSA, are ineligible to make or receive contributions into an HSA.

The new guidance also increases the **Carryover** amount to \$550 for plan years beginning on or after January 1, 2020.

Footnote:

- The Grace Period allows extra time after the plan year has ended during which time participants may incur additional expenses to exhaust funds remaining from the prior plan year.
- The Runout Period is the time within which participants can submit claims for reimbursement after the plan year has ended.

Please reach out to your GDI Account Manager or clientservices@gdynamic.com if you have any questions. We hope that you and your team remain well.



2020 Flexible Benefit Plan Changes Confirmation Form

The following changes are optional; if you wish to adopt some or all, please initial the applicable boxes, sign and date the form, and then return it to your GDI Account Manager.	
	<u>Initial to Adopt:</u>
Prospectively enroll themselves or family members in health coverage without an event;	
Prospectively change to another health plan option without an event;	
Prospectively revoke coverage but only if an attestation is provided that the employee is or will be enrolled in other health coverage.	
Please ensure your carrier or stop loss provider is willing to accept the above changes	

In addition to the group health plan change options above, FSA participants may make the following changes for any reason:	
	<u>Initial to Adopt:</u>
Prospectively enroll in an FSA;	
Prospectively increase the FSA election;	
Prospectively decrease the FSA election;	
Prospectively revoke the FSA election;	

For FSA plans with a Grace Period and that Grace Period <u>ended</u> in 2020	
– OR –	
For FSA plans with NO Grace Period and the plan year <u>ended</u> in 2020	
	<u>Initial to Adopt:</u>
For a Grace Period ending in 2020, you may extend it to December 31, 2020. What date do you wish to extend it to? _____	
For a Plan Year that ends in 2020, that does not have a grace period, you may extend the end of the plan year to December 31, 2020. What date do you wish to extend it to? _____	

Organization Name:		
Decision Maker Name and Title:		
Signature:		Date: