

## COVID Related Relief for DCAPs and Health FSAs

January 6, 2021

The lame duck legislative deal in Congress, known as the Consolidated Appropriations Act (CAA), 2021, includes several *temporary* changes to the rules governing health flexible spending accounts (FSAs) and dependent care assistance plans (DCAPs, also known as dependent care FSAs) for plan years 2020, 2021 and 2022. The permitted changes are *optional* and require plan amendments. The following summarizes the relief provided in the CAA.

### **Relaxed Carryover Rules**

Health FSAs and DCAPs are usually subject to a “use it or lose it” rule, meaning unspent funds in a worker’s account are forfeited at the end of the plan year, except for a limited carryover to the next year in Health FSAs (up to \$550 for 2020). The new temporary rules allow carryover of *all* unused funds in health FSAs *and* DCAPs for plan years ending in both 2020 and 2021.

### **Grace Period Extension**

Some health FSA and DCAP plans provide for a grace period, i.e., up to 2 ½ months at the beginning of the new plan year in which an employee can incur new claims and spend unused funds from the prior year. Under the CAA, employers may extend this grace period to 12 months after the end of the plan year for both 2020 and 2021 plan years. Note that health FSAs may not have both a grace period and a carryover.

### **Mid-Year Election Changes**

In general, employees are only permitted to make plan changes during a plan year under certain circumstances, such as when they have a change in their marital status or in the number of their dependents. The temporary rule allows all health FSA and DCAP participants to make *prospective* changes to their elected contribution amount for plan years ending in 2021 without regard to whether they experience any of the change in status events that are normally required.

### **Post-Termination Health FSA Reimbursements**

After ceasing participation in a health FSA (in 2020 or 2021), employees may continue to receive reimbursements from unused funds for expenses incurred through the end of the plan year.

### **Extension of DCAP Age Limit**

The age limit for DCAP-qualifying children is temporarily extended from under 13 to under 14 years of age. DCAP participants can continue to receive reimbursements for expenses for the remainder of the plan year after the child turns 13 (provided the enrollment period ended on or before January 31, 2020). In addition, if there are any unused funds in that plan year, reimbursements can continue during the following plan year until the child’s 14<sup>th</sup> birthday.