Consolidated Appropriations Act 2021

Summary

On December 27, 2020, the latest COVID relief bill, the Consolidated Appropriations Act, 2021, was signed into law. The law includes several provisions that provide relief for health and dependent care flexible spending accounts. **Employers may, but are not required to**, permit the following:

- Carryover of unused funds, with no dollar limit, from a plan year ending in 2020 and/or 2021 to a plan year ending in 2021 and/or 2022; or
- Extension of the grace period to up to 12 months after the end of the plan year for a plan year ending in 2020 and/or 2021.

The above applies to both health and dependent care FSAs.

- Employees who cease participation in a health FSA during calendar year 2020 or 2021 may continue to receive reimbursements from unused benefits or contributions for claims incurred through the end of the plan year in which such participation ceased (including a grace period if applicable).
- Increase the maximum age (by one year) for certain dependent care beneficiaries who aged out during 2020, and provide additional relief for such dependent care beneficiaries in 2022.
- Prospective modification of election amount for health and dependent care FSAs for a plan year ending in 2021.

As stated above, these provisions are not mandates but are options for employers to consider. Plan amendments must be made by the end of the first calendar year beginning after the end of the plan year in which the amendment is effective (for example, calendar 2020 plan amendments must be adopted on or before December 31, 2021), provided the plan must be operated consistent with the terms of the amendment beginning on its effective date.

Please note that while we wanted you to be aware of the provisions in the law and have a chance to consider them, the law is quite voluminous and additional IRS guidance may be forthcoming. In addition, WEX cannot provide legal or tax advice regarding this law or its requirements. For those questions, you should consult your own counsel.

Potential Approaches in System

Carryover permitted from plan year ending in 2020 to plan year ending in 2021 and Carryover permitted from plan year ending in 2021 to plan year ending in 2022

Medical FSA, Limited FSA and/or Combination (Post-Deductible) FSA *Use Standard FSA Rollover Rules*

1. Rollover Amount on the new plan (target plan) should be updated to $3,250 to allow for the max previous year contribution (plus rollover) to be applied OR update rollover amount to 100%. **Note**: If you update the rollover rule to be 100%, the max rollover amount defaults again to $500. Be sure to update that max in order to ensure that the balance rolls at 100%.
2. Rollover Date on the target plan should be set to the first day of the next plan year.
3. Rollover reversal on the target plan should be enabled: "Allow automatic claim adjustments" should be set to yes.
4. Runout on the source plan should be set to the employer's preference (Number of days to file after plan year end). According to the rule, this could be up to the end of the next year's plan.
5. Multiple rollover rules should be set up to allow standard FSA to roll to standard FSA and, if applicable, standard FSA to LPFSA and LPFSA to standard FSA.
   Note: In order for rollover rules to work as described, the "Plan Type" on for the limited purpose FSA must be set to "Limited". The logic does not consider a limited purpose plan template when rolling dollars. The plan type must be set.
6. The rollover rules should be set up for active and spend down consumers (COBRA and LOA as well can be selected if that is your preference/default).

What this means

If set up as described above, on the first day of the next plan year, funds will roll from the source (previous) plan to the target (next plan). An enrollment must be present in the target plan in order for funds to roll. However, for spend down consumers (participants who have a balance in the previous plan year but do not have an enrollment in the target plan year), a $0 enrollment will be entered into the target plan year so that funds can roll.

Additionally, when funds roll for those that are not participating in the next plan year, if multiple rules are set up, and there is a rule that will moves funds from a standard FSA to an LPFSA for spend down consumers, the system will look at whether there is an HSA enrollment in the next plan year and will place rollover dollars into the LPFSA for spend down consumers automatically if applicable.

After rollover, and after the start of the new plan year, as claims are filed during the runout period for dates of service in the previous plan year, the system will roll back enough balance to pay the claim in the previous plan year.

Dependent Care FSA

Use a Grace Period on the 2020 plan

1. On the DCA plan design page, change the "allow claims to be filed with a date of service through" to 12/31/2021 (or end of next plan year). This date can be updated after initialization. **Note**: You will get a warning that the grace is greater than 2.5 months. However, you can click through the popup and the change will save.
2. Update the Runout days to be greater than or equal to the grace period.
3. For those that are not enrolled in the next plan year, they would just have the 2020 plan to file against for expenses incurred in 2021 or 2020.
4. Anyone participating in the new plan year, enroll for the amount that they are electing and business as usual on that plan in 2021. When claims file, they will file against the 2020 plan first because its end date is first.

What this means

Extending a grace period to dependent care plans allows access for both previous and current year dates of service with very little work administratively. Consumer portal claims and claims link claims will automatically file against the "correct" plan based on the date of service entered for the claim, and claims can split across plan years seamlessly.

Grace period for plan year ending in 2020 or 2021 may be extended to 12 months after the end of the plan year.

Dependent Care, Medical FSA, Limited FSA and/or Combination (Post-Deductible) FSA

Use a Grace Period on the 2020 plan

1. On the plan design page, change the "allow claims to be filed with a date of service through" to 12/31/2021 (or end of next plan year). This date can be updated after initialization.
   Note: You will get a warning that the grace is greater than 2.5 months. However, you can click through the popup and the change will save.
2. Update the Runout days to be greater than or equal to the grace period.
3. For those that are not enrolled in the next plan year, they would just have the 2020 plan to file against for expenses incurred in 2021 or 2020.
4. Anyone participating in the new plan year, enroll for the amount that they are electing and business as usual on that plan in 2021. When claims file, they will file against the 2020 plan first because its end date is first.

What this means

Extending a grace period to any FSA plan allows access for both previous and current year dates of service. Consumer portal claims and claims link claims will automatically file against the
"correct" plan based on the date of service entered for the claim, and claims can split across plan years seamlessly.

Increase the maximum age (by one year) for dependent care beneficiaries who aged out during the pandemic.

Customize the Expense Categories and Expenses on the Dependent Care Plan Design Page
Admins can adjust expense categories that drive the age/date logic in the system today:
For DCA Plans, click on the "Eligible Expenses" and customize the expense list:

1. Change the Display Name of "Adult" category to: Dependent over 12
2. Change one of the eligible expenses under Adult to be some type of language to convey "13 year old child for 2020 Rules"
3. Change the Display Name of the "Child" category to: Dependent 12 or under
4. Leave the expense names the same under the current "child" category

What this means
When the "Dependent over 12" category is picked on the consumer portal, the system will not apply age logic to the claim filed. This would mean that claims admins would need to potentially manually confirm the dependent age/eligibility -- admins can consider adding a birthdate to manual claim forms and going to the dependent record each time to verify birthdate for consumer portal claims.

OR

Manually file claims by Plan and handle exceptions one-off
Because this rule only applies to consumers who lost funds due to the pandemic and would not be able to take advantage of the rollover typically because their child is aging out (turned 13 in 2020), you could request that these individuals file claims manually. Claims Admins would need to file these claims by Plan so that the logic on the age restriction can be overridden on a per-claim basis.

Provide employees who cease participation in a health FSA during calendar 2020 or 2021 the opportunity to receive reimbursements from unused benefits or contributions through the end of the plan year in which such participation ceased

Open up the remaining plan year balance (election)

For Status Terminations:

1. Remove the termination from the participant's record.
2. Claim filing can happen "as usual."

For Benefit Terminations:

1. Enter an SR to remove the enrollment termination.
2. Claim filing can happen "as usual."

What this means

Removing the termination will provideaccess to funds up to the election and participants can use their debit card oronline claim filing to access. Note that the balance up to the election amount would be availableto those participants.

OR

Open up the remaining "available balance"

1. Set up a new "FSA Runout Plan" with a plan yearof 01/01/2020 - 12/31/2020.
2. For each participant who has termed theirbenefit or status, calculate the "available balance" by summing up contributions YTD and subtractingclaims paid YTD.
3. Go into the original 2020 consumer's account and adjustbalances down to $0 (make both a plan and availablebalance adjustment to $0 out plan).
4. Enroll the participant in thenew plan with their "remaining balance" amount.

What this means

The original enrollment would need to beadjusted down to $0. An enrollment in thenew plan would

provide a balance that is what has been contributedminus what was paid priorto the termination,

exposing what is essentially an "available balance" for an FSA.

<u>Prospective modification of election amount for health and dependent care FSAs</u>

Election modifications should followstandard procedure for organizations. There are multiple options for makingelection modifications in thesystem. Listed below are four options for making election changes in the system.

<u>Option 1</u>

Description: Administrator adjusts consumer's electionin the admin portal and keeps the original enrollment effectivedate.

Example: A consumer is enrolled as of 1/1/2020for $500 and increases the election to $1,000 in August. The admin user updates the 1/1/2020 enrollment to $1,000. A claim is submitted for thedate of service on 4/1/2020 for $600. The participant hasn't filed any claims in 2020. The claimis paid for full $600.

Pros/Cons:

- Manual administrative work
- Will not look like 'two bucket approach' where the election acts independently
- Will error if new election is below posted contributions/paid claims

- Payroll will be recalculated, which may require adjustments to the YTD payrolls
- Good approach for decreases

Option 2

Description: Update consumer's enrollment by adding a new enrollment effective date and election amount (election amount = previous election + new election)

Example: A participant is enrolled as of 1/1/2020 for $500 and increases the election to $1,500 on 8/1/2020. A claim is submitted for the date of service on 4/1/2020 for $1500. The participant hasn't filed any claims in 2020. The claim is paid $500 and $1000 is denied.

Pros/Cons:

- Works great for increases
- No manual work; file accepts
- Claim adjudication logic will take into account the annual election amount based on date of service and pay out accordingly

Option 3

Description: Enter a new participant record and enrollment record.

Example: A participant is enrolled as of 1/1/2020 for $500. The participant is added to the system again with a new election of $1,000 on 8/1/2020. A claim is submitted for the date of service on 4/1/2020 for $600. The participant hasn't filed any claims in 2020. The claim is paid $500 and $100 is denied.

Pros/Cons:

- No manual work; file accepts
- True 'two bucket' approach
- Increase in admin fees since consumer will have multiple accounts
- Poor consumer experience - multiple consumer portal logins, new debit card etc.

Option 4

Description: Administrator creates a separate plan to enroll the participants that experience an enrollment change.

Example: A participant is enrolled as of 1/1/2020in Plan A for $500 and has a new election in Plan B for$1,000 on 8/1/2020. A claim is submitted forthe date of service on 4/1/2020 for
$600. The participant hasn't filed anyclaims in 2020. The claim is paid $500 and $100 is denied.

Pros/Cons:

- No manual work;file accepts
- True 'two bucket' approach
- Consumer keeps existing debit card and canfile against first plan as

We have outlined the options above and the functionality in the platform. This is available for your teams to workwith employers to makethe changes based on employerdecisions.