

Legislative Brief

Consolidated Appropriations Act, 2021 Includes FSA Relief Provisions January 2021

Employers Able to Provide FSA Relief

The Consolidated Appropriations Act (“CAA”), 2021 was passed by Congress on December 21, 2020 and signed into law on December 27, 2020. This COVID-19 relief bill includes provision for employers to make temporary changes for health and dependent care flexible spending accounts (FSAs). According to the CAA, employers are allowed (but not required) to:

- Permit carryover of unused Health and/or Dependent Care FSA funds from plan year ending in 2020 to plan year ending in 2021, and from plan year ending in 2021 to plan year in 2022.
- Extend the grace period for Health and/or Dependent Care FSA plan years ending in 2020 or 2021 up to twelve months following the end of the applicable plan year.
- Permit employees who terminate participation in a Health FSA in 2020 or 2021 to spend down unused balances through the end of the plan year (including any applicable grace period).
- Increase the maximum age for dependent care beneficiaries from 13 to 14 if they aged out during the pandemic.
- Permit employees to modify Health and/or Dependent Care FSA election amounts for plan years ending in 2021 without regard to any change of status requirements.

Amendments implementing any of the permitted changes must be completed no later than the last day of the calendar year following the end of the plan year in which the amendment is effective. For example:

- If your plan runs January 1, 2020 through December 31, 2020, amendments applicable to the plan year beginning 1/1/20 must be adopted by December 31, 2021.
- If your plan year runs July 1, 2020 through June 30, 2021, amendments applicable to the plan year beginning 7/1/20 must be adopted by December 31, 2022.

During the period between the effective date of the amendment and the date it is adopted, the plan must be operated consistent with the terms of the amendment.

As a side note, the CAA also includes the No Surprises Act, protecting individuals from surprise medical bills from out-of-network health care providers. The law supplements state surprise billing legislation and does not go into effect immediately.

The law under the Internal Revenue Code has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of these health plan related requirements. This Kapnick Insurance Group update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information and is based on general information available at the time it was prepared. Readers should contact their tax and/or legal counsel for advice that is appropriate to their specific circumstances.