

# Electronic Alert

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## What the Consolidated Appropriations Act of 2021 Means for Your Health FSA & Dependent Care Account Plans

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Among the sprawling 5,000 plus pages of legislation signed into law on December 27, 2020, are several employee benefits provisions worth a second look. The most pressing of these changes are rollover and extended grace period options related to Health Flexible Spending Accounts (FSAs) and Dependent Care Account Plans (DCAPs) that allow employers to implement plan changes to avoid employees forfeiting remaining Health FSA and DCAP balances.

While employees with pending balances will be anxious to hear whether their employers intend to roll out this relief, plan amendments are not required for quite some time, so there is no need to push through a last-minute amendment before end of year.

### Health FSAs

As many companies are well aware, some employees had a difficult time spending their full FSA balances in 2020. The key issue has been that certain non-urgent procedures that an employee may have planned for in 2020 were delayed due to COVID-19, leaving the employee with a sometimes sizeable FSA balance.

Under normal circumstances, an employer's options are quite limited when it comes to an employee's end-of-year FSA balance. However, the current stimulus offers some additional options that may come as a relief to many employees.

Under the new package, employees are still prohibited from cashing out their remaining account balance or making a retroactive election change. However, the bill allows amounts remaining as of December 31, 2020, to be spent in 2021 and 2022. This additional time to spend can be accomplished through a plan amendment that adjusts the plan's carryover or grace period language.

Participants will also have more flexibility in 2021 to make election changes, as prospective changes will be allowed even where a participant does not have a "change of status" as defined by the regulations.

### DCAPs

As with Health FSAs, many plan participants reached the end of the year with dependent-care balances because their children were not in daycare for much of the year and largely did not attend summer camps. The new bill allows employees with unused balances for the 2020 plan year to claim reimbursements for the 2021 plan year. In addition, the maximum age for reimbursements related to child care was increased from 12 years old to 13 years old for dependents who aged out during the

last plan year. Additional flexibility is also available to make prospective election changes throughout the year.

## **Conclusion**

As noted above, each of these plan changes is optional. In addition, while the treatment of funds can now be changed to allow employees to avoid a forfeiture on December 31, 2020, formal plan amendments are not required for quite some time.

*If you are interested in discussing plan amendment options or any participant communication you may wish to send before year-end, contact Iris Tilley at 503-276-2155 or at [itilley@barran.com](mailto:itilley@barran.com).*