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PLEASE NOTE: After this alert was published, additional guidance regarding grace period was provided by the IRS. As a result, the information contained in this alert is outdated. Please reference our updated alerts for more information:

https://healthequity.com/doclib/compliance/Compliance_Alert_Notices_2020-29_2020-33_20200512_Final.pdf.

Our main page will continue to be refreshed as new guidance is published:

<https://healthequity.com/coronavirus/>

News from the Benefits World

Changes to regulations and rules are coming to the benefits world at an unbelievable rate. Here is applicable relief to filings and payments, plus answers to some of the questions you may be receiving from employees.

Internal Revenue Service

IRS tax filings due by April 15, 2020 have been extended to July 15, 2020. This not only includes the tax forms, but tax payments due for 2019.

Other relief includes 2019 contributions made to health savings accounts (HSAs). Generally, contributions for the calendar year 2019 must be made to HSAs during the 2019 calendar year or by April 15, 2020 at the very latest. A recent set of Q&As from the IRS

<https://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers> extended the 2019 contributions timeframe to July 15, 2020 to correspond with the tax filing extension.

On Friday, March 27, 2020 President Trump signed into law a \$2 trillion appropriations bill that addresses many issues stemming from the coronavirus pandemic. Two provisions of note to flexible benefits:

- For health savings accounts (HSAs). Telehealth and other remote care service expenses paid below the HSA-qualified high-deductible health plan (HDHP) statutory deductible limit will be permitted with no effect to the participant's ability to continue to contribute to their HSA. The provision is effective immediately and will last until December 31, 2021.
- For over-the-counter (OTC) and menstrual care products. The law provides that effective January 1, 2020, HSAs, healthcare flexible spending accounts (FSAs) and health reimbursement arrangements (HRAs) will now be able to pay for or reimburse for OTC drugs and medicines without a prescription, reversing an Affordable Care Act requirement that has been in effect since January 1, 2011. In addition, expenses for menstrual care products will be treated as qualified medical expenses which can be paid by an HSA, FSA or HRA. This provision does not have an expiration date.

San Francisco

Required employer reporting is cancelled under an Emergency Proclamation of February 25, 2020.

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San Francisco Healthcare Security Ordinance (HCSO) provides qualified minimum wage individuals, who work in San Francisco and qualify, with access to affordable healthcare by mandating the creation of a Health Access Program that provides services to the uninsured. This ordinance requires reports to be filed that document employee healthcare expenditures every year and is due on May 1.

HCSO is cancelling the employer requirement to submit the 2019 Annual Reporting Form. All other requirements of the HCSO are still in effect for employers covered by this ordinance.

Additional information on the San Francisco Healthcare Security Ordinance may be found at www.sfgov.org/olse/hcso.

Flexible Benefit Questions

Healthcare flexible spending accounts (FSAs). Employees may be asking to change or start a healthcare FSA because of changes to their health, increase in healthcare spending or a decrease in healthcare spending. Preventive dental care, eye care expenses and elective surgery may have been cancelled due to COVID-19 concerns. Unfortunately, under current guidance, changes to election amounts due to having additional or fewer medical expenses is not an allowable change in status event. Unfortunately, is a change in a person's health status is not a reason to change an election or enroll in a healthcare FSA. Only a verifiable "change of status" allows employees to change their initial elections into the healthcare FSA. For the complete discussion, read [Changing Elections after the Beginning of a Benefit Plan Year](#)

Some Employers have asked if they could extend the grace period in a healthcare FSA after the end of the plan year to protect FSA participants from losing funds. Unfortunately, the 2 ½-month grace period is a statutory requirement. The runout period, however can be extended (a longer time to submit expenses incurred), but the grace period cannot be extended at this time. Similarly, Employers have asked if carryover amounts can be increased. This amount is an IRS-determined amount and must be changed by additional guidance, but at present, the carryover limit remains at \$500 for unused Healthcare FSA funds.

We've engaged the IRS on these Employer questions as they arise.

Dependent care (DCFSA) are another concern. Parents may now be working from home (due to an employer mandate) and may decide to care for their child from home instead of sending/paying for daycare. Similarly, schools may have closed resulting in additional day care costs. The DCFSA election change rules are very broad. Employees may change their election if there's a change in the childcare provider or cost of coverage. The change must be consistent with the reason for the change. For example, if the provider is no longer providing the care (i.e., summer day camp cancels or care is no longer needed) the election can be reduced or eliminated. There should be no need for additional guidance on these due to COVID-19, but we'll continue to watch for updates.

The employer may even fund a DCFSA account with a company contribution. Limits still apply for any calendar year (\$5,000 for those filing as single or married filing jointly and \$2,500 each for those who are married but filing separate returns).

Health savings accounts (HSAs) are a great way to save money while accruing money to pay for qualified medical care. Employers can increase their contributions to employees' HSAs, but statutory contribution limits still apply. The employer would need to communicate with

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employees and should understand that it can create scenarios where contributions exceed the statutory maximum if individuals elected to max out their contributions. Fortunately, it's early in the year, so an employer would be able to communicate needed changes in employee contributions or adjust the limiter they have in payroll.

The IRS issued Notice 2020-15: <https://www.irs.gov/pub/irs-drop/n-20-15.pdf> indicating HSA-qualified high-deductible health plans (HDHPs) can provide COVID-19 medical expenses below the deductible and with reduced or no copays. This will not jeopardize employees' eligibility to make contributions to their HSAs.

And, unfortunately, some industries have completely shut down – i.e. restaurants – and are not issuing paychecks. Missed contributions to flexible spending accounts may be made up when employees return to work if made during the same plan year.

As it becomes available, we will continue to keep you updated on all news related to consumer-directed benefits.