

Flex Plan News

Flexible Benefit Plan News for Administrators**May 2004**

HIPAA Privacy Compliance for Medical FSA Plans

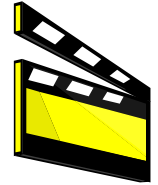
The Medical FSA is a “health plan” under federal law, thus subject to HIPAA privacy rules. The following steps should be taken to comply with the privacy regulations:

- 1) Adopt a Privacy Policy
A company must have a written statement of its procedure for handling “Protected Health Information”. In our context, PHI includes information on contributions, account balances, claims, and benefit payments. **ProBenefits** provides a model Privacy Policy that clients can adopt as their official Policy.
- 2) Designate a Privacy Official
ProBenefits provides a model designation form for appointing the individual responsible for overseeing your Privacy Policy.
- 3) Request Business Associate Agreements
You should require a BAA of any outside party who has access to your PHI in the course of performing duties for the plan. **ProBenefits** provides a sample Agreement.
- 4) Amend and Certify Your Plan Document
ProBenefits provides its clients Plan documents and/or amendments which contain the necessary Privacy verbiage, as well as the needed Certification of this fact.
- 5) Provide Notice of Privacy Practices
You must provide each Medical FSA participant this notice. **ProBenefits** provides a Model Notice for this purpose.

Complying with HIPAA privacy regulations requires touching the right bases, but need not be burdensome. We are ready to provide the help you need in order to comply. Click [here](#) for more info.

Quickies

- ◆ Direct Deposit Claims Crediting Date
Claims that **ProBenefits** receives by Friday of each week are disbursed the following Wednesday. Your bank may not credit the funds to your account until Thursday or even Friday.



Your Questions Answered

What options exist when a “significant cost change” in insurance premiums occurs during the plan year?

Significant cost changes in insurance premiums may allow participants in pre-tax insurance plans to make a mid-year coverage change. If appropriate language is included in the plan document (as in **ProBenefits** documents), participants may:

- A) Accept the cost increase, thus continuing pre-tax treatment of the higher premium;
- B) Elect similar alternative coverage, if available (for example, when dual-option health plans exist); or, if no similar coverage is available...
- C) Drop coverage altogether.

Here are important considerations:

- A) The definition of “significant” is left to the plan sponsor – the employer – who declares whether an increase is significant.
- B) The increase may originate as a carrier rate increase or a change in employer contribution.
- C) A participant can only change or drop coverage but *cannot change coverage category*; for instance, dropping family coverage to take employee-only coverage.
- D) The Medical FSA election amount cannot be changed as a part of this transaction.

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