

Flex Plan News

Benefits News for Administrators

November 2008

Update on Final Cafeteria Plan Regulations

Since the release of the proposed final cafeteria plan regulations in September 2007, we have been providing periodic updates on the status of the final regulations. As of today, the final regulations have not been released by the IRS, and the release is not expected until January or later. With the delay, we anticipate that the effective date will be pushed back to January 2010 (originally 1/1/09). Until further word from the IRS, plans are able to rely on the proposed regulations, which ProBenefits is currently doing as part of our administration of your plan. We will provide details about the final regulations in a special edition *Flex Plan News* as soon as they are released. Until then, if you have any questions, please contact ProBenefits attorney Jason Cogdill.

Flex Card Update: Improved IIAS For 2009

Recent changes in the law and card technology have made the Flex Card more efficient and effective for plans and participants. The Inventory Information Approval System (“IIAS”) continues to include additional retail locations where eligible expenses (including prescriptions and over-the-counter items) can be auto-adjudicated. As of 1/1/2009, there will be over 1,000 national, regional, and local merchants utilizing the IIAS system. For a complete listing of merchants with the IIAS, visit our website: www.ProBenefits.com/Debit/IIAS.html.

When a participant swipes the Flex Card at a participating merchant, the IIAS system automatically verifies eligible items purchased at the point of sale. No further documentation is needed from the participant for these transactions. As of 1/1/09, IRS rules will not allow cards to be used at retail locations without IIAS in place. This means that every retail Flex Card transaction should auto-adjudicate, greatly reducing both the paperwork for participants and the necessity of “pay-and-chase” for employers. Cards used at medical offices may still require documentation.

Since the Flex Card is convenient for participants and also helps employers boost participation and tax savings, many FSA employers have added the Flex Card in the past year or are adding it for 2009. If you have any questions or would like more information on the Flex Card, contact your ProBenefits administrator.

Tax Benefits From Pre-Tax Premiums & FSAs

This time of year, we receive excellent questions from employers and participants about the type or amount of tax savings created by flex plans and FSAs. In today’s economic environment, it is especially important to know how these plans are helping companies and employees by reducing taxes and increasing take-home pay. Employees typically save about 30% or more on all salary deductions for eligible premiums or FSA elections for out-of-pocket medical or childcare expenses. The 30% tax savings comes from the fact that IRS rules make all employee flex contributions exempt from federal, state, and FICA taxes. Employers save 7.65% on all dollars contributed by employees (for premiums or FSAs) because IRS rules allow Employers an exemption from the FICA match on all employee flex contributions. The result is significant tax savings for individuals and companies.

As one simple example: an average 50-person company with (1) pre-tax premiums for spouse/dependent health coverage (employees covered at 100% for health premiums), (2) Health FSA, (3) and Dependent Care FSA

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generates approximately \$45,000 in total tax savings for employees and \$12,500 in tax savings for the employer. If you would like more info on tax savings for your plan or would like to discuss ways to increase savings, contact us.

Reminder of FSA Claim Deadlines for Calendar Plans

For calendar year plans, the 90-day claim runout period ends on Tuesday, March 31, 2009. Participants should submit claims no later than March 31 for reimbursement from 2008 plan year contributions. Of course, all expenses have to have been incurred during the plan year (or, if applicable, the 75-day grace period ending March 15, 2009) to be eligible for reimbursement.

Participants should not wait until the last minute, since in some cases additional information or documentation may be needed. Once ProBenefits has processed all 2008 claims for your plan, a final Account Balance Report will be provided for the 2008 plan year.

ERISA Exemption for Churches and Government Plans

ERISA, which regulates disclosure, reporting, and claims processing obligations of all employee welfare benefit plans, generally applies to all U.S. employers regardless of size or status. We have reported on ERISA requirements in this newsletter on previous occasions as they relate to flex plans and other benefit plans.

There are two exceptions to ERISA application. One exception is for plans sponsored by government entities and agencies (federal, state, and local government). A second exception exists for churches and associations and conventions of churches. To qualify for these exemptions, plans must be sponsored and maintained by these entities with no involvement from non-government or non-church entities. For plans that are exempt from ERISA, certain standard requirements (documentation, claim review processes, Form 5500s, etc) may not apply. However, state law may apply to certain aspects of those plans where not covered by ERISA. If you work with a church or government entity and have a question about whether ERISA applies to your plan, contact your plan advisor.

Your Question Answered: "Do FSA Plans Work In Conjunction with HDHP & HSA Plans?"

Yes. FSA plan options enhance an HDHP plan design in several valuable ways. While there are eligibility restrictions that prevent individuals from participating in general-purpose Health FSAs and HSA bank accounts at the same time, FSA plans still work very effectively with HDHP and HSA plans. First, HDHP plans need the 125 plan as a vehicle for pre-tax premiums (including HSA pre-tax payroll contributions). Second, the Health FSA option can assist employees with cash flow and allow employees to save money on qualified expenses throughout the plan year. Unless the employer is pre-funding an HSA, the Health FSA may be a better option for many employees. It has been said that "*Flexible Spending Accounts are for health spenders, and Health Savings Accounts are for health savers,*" and that statement is very true. Third, the Dependent Care FSA remains a significant benefit to employees and tax-saving tool to employees and employers. The Dependent Care FSA can be used in conjunction with any health plan or other benefit plan option, including HSAs. Fourth, the Limited FSA (for dental/vision expenses) is an excellent option to assist HSA account holders with tax savings on additional funds set aside for dental and vision expenses (orthodontia, glasses, contacts, lasik eye surgery, dental procedures, etc). Finally, as studies are confirming, some employees will choose to forego opening an HSA bank account, and the general-purpose Health FSA remains an effective alternative for them.

For more information on this topic, or if you have a particular plan design question or compliance question that we can assist with, please contact Jason Cogdill, in-house attorney at ProBenefits. Jason advises employers and plan advisors on a wide range of benefits topics and is available to you as a resource.

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