

## Health FSA Reimbursement for Orthodontia

This is a summary of rules relating to reimbursement of orthodontia expenses for Flexible Spending Accounts (“FSAs”). Whereas IRS rules generally prohibit reimbursement for prepayment of expenses (including one-time lump sum payments for medical services not yet incurred), the current regulations include an exception for orthodontia that allows participants to be reimbursed for prepayments for qualified expenses. Participants may also be reimbursed by two other methods described below.

### The Rules

IRS regulations allow a Health FSA participant to be reimbursed for orthodontia services before services are provided, but only to the extent that the employee has actually made the payment in advance of the service in order to receive the service. Where the employee is prepaying for services, the date of service is deemed to be the date of payment. This is an exception to the standard rule for FSAs, which holds that reimbursement is based on the date of service rather than the date of payment.

*Example:* Employer sponsors a calendar year Health FSA with a maximum amount of \$5,000. Employee elects \$3,600 for the 2011 plan year. Employee’s eligible dependent is scheduled for orthodontia treatment, which will last over a two-year period in 2011 and 2012. On March 1, 2011, Employee pays the orthodontia expenses in full with a lump sum payment of \$3,000.

Employee may submit documentation for the payment and be reimbursed up to \$3,000 from his 2011 Health FSA. Even though all services are not yet incurred, the service is deemed to be “incurred” on day of payment (3/1/11).

**Note:** If Employee had only \$1,000 in his 2011 FSA instead of \$3,600, he could be reimbursed only \$1,000 for the prepaid orthodontia expenses. Also, because the date of service is deemed to be the date of payment, using the lump sum method, no further expenses would be eligible for reimbursement in 2012. Participants in plans with low Health FSA elections or plan maximums should consider this as they make elections and make plans for orthodontia payment/treatment.

### Keep in mind:

#### (1) Services must be rendered

IRS rules require that the payment must be made specifically in order for a service to be rendered. Payments for services rendered in previous plan years, or prepayments for services not to be rendered until a later plan year are not reimbursable.

#### (2) Employee must be an active participant in the plan

To be reimbursed for orthodontia expenses, the employee must be actively employed (or participating through COBRA) and making contributions to the Health FSA.

#### (3) Options for reimbursement according to (a) services incurred or (b) payment plans remain available

If your situation or needs are such that you wish to be reimbursed based on services incurred or based on a payment plan rather than by lump sum payment, those options are available. Previous informal IRS guidance has confirmed that it is permissible for orthodontia expenses to be reimbursed according to a deferred payment plan. This method is especially helpful for participants who do not do lump-sum payments or who have significant expenses over a multi-year period.

### Documentation Requirements:

**For lump sum payments:** Submit documentation from the orthodontist showing the name of the person receiving the treatment, the beginning date of the treatment, the contracted amount, and the amount you paid. Credit card slips, bank statements, or cancelled checks are not valid documentation under IRS rules.

**For payment plans:** For your first claim, submit your payment contract with the orthodontist showing the name of the person receiving the treatment, the beginning date and ending date of the treatment, total contracted amount, scheduled monthly payment amount, and total amount of your first payment (including any initial fees or records fees). For each claim thereafter, submit documentation from the orthodontist showing the amount you paid and the name of the person receiving the treatment.

If you have any questions or need assistance, feel free to contact us by email ([Flex@ProBenefits.com](mailto:Flex@ProBenefits.com)), by phone (888-722-8382 toll free), or on the web at [www.ProBenefits.com](http://www.ProBenefits.com).