

Health FSA Reimbursement for Orthodontia

In late 2007, the IRS issued new regulations for Flexible Spending Accounts (“FSAs”). Whereas in the past IRS rules prohibited reimbursement for prepayment of orthodontia expenses (including one-time lump sum payments), the new regulations create an exception that allows participants to be reimbursed for prepayments for qualified orthodontia expenses.

The Rules

The 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 \$3600. Employee elects \$3000 for the 2009 plan year. Employee’s eligible dependent requires orthodontia treatment, which will last over a two-year period in 2009 and 2010. On March 1, 2009, Employee pays the orthodontia expenses in full with a lump sum payment of \$2500.

Employee may submit documentation for the orthodontia payment and be reimbursed up to \$2500 from his 2009 Health FSA balance. Even though all orthodontic services are not yet incurred, the new rule deems the service to be “incurred” at the time of payment for purposes of reimbursement.

Note: If Employee had only \$1000 in his 2009 FSA instead of \$3000, he could be reimbursed only \$1000 for the prepaid orthodontia expenses. Employee will be eligible to be reimbursed for the remaining \$1500 from 2010 FSA funds only if Employee can document that services are ongoing in 2010. 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) Option for reimbursement according to services incurred (or payment plan) remains 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 a lump sum payment, that option is 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.

Claim 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), by phone (888-722-8382 toll free), or visit us on the web at www.ProBenefits.com.