



IRS Code Section 125 Limited Relief

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2020 Relief

- Notice 2020-29
 - Health plan and Health/Dependent Care FSA Election Changes
 - Grace Period and Plan Year extensions
 - Retroactive application of CARES Act Telehealth Rule

- Notice 2020-33
 - Carryover amount adjustments



2020 Relief

- Employers may but are not required to adopt the changes
 - And employers may impose limitations on some of the changes
 - Will employers adopt them all? Some? None?
- Plan amendments required with respect to the changes that are adopted.
 - Plan amendments may be retroactive but changes are generally prospective.



Notice 2020-29

- Employer sponsored health coverage changes:
 - Enroll
 - Switch Options
 - Drop coverage but only if participant certifies that they are enrolled in or will be enrolled in other health coverage
 - IRS provided sample certification
- Unclear regarding scope of “employer sponsored health coverage”
 - Dental? Vision?
- Prospective election changes only
- Employer may impose additional limitations
- Calendar year 2020 only



Notice 2020-29

- FSA election changes
 - Enroll
 - Increase
 - Decrease
 - Revoke

- Prospective only
- No corresponding event required
- May limit changes to the amount already reimbursed.
- Employer may impose additional limitations
- Calendar year 2020 only



Notice 2020-29

- Grace Period/Plan Year extensions

- May extend grace period or plan year ending in 2020 through December 31, 2020
- Allows use of unused contributions from plan year ending in 2020 for reimbursement of expenses incurred after the end of the plan year and on or before December 31, 2020.
- If plan has carryover, and it extends the plan year through December 31, 2020, the carryover will not pick up until January 1, 2021.
- **Extensions will impact HSA eligibility!**



Notice 2020-29

- Example:
 - Plan year ending June 30, 2020. Plan has a \$500 carryover provision.
 - Employee A has a balance in Health FSA of \$2000 on June 30, 2020.
 - Employee elects \$2000 for the plan year beginning July 1, 2020 and ending June 30, 2021.
 - Between July 1, 2020 and December 31, 2020, A incurs \$1900 in expenses.
 - Plan may use 1900 remaining from plan year ending June 30, 2020 to reimburse the 1900 incurred between July 1 and December 31, 2020.
 - Employee A will have \$2100 for claims incurred between January 31, 2021 and June 30, 2021
 - \$2000 election for plan year ending June 30, 2021 and \$100 carryover from “extended” plan year ending in 2020



Notice 2020-29

- Plan amendment required by December 31, 2021
- May be retroactively effective to January 1, 2020
 - What does this mean? It simply means that if you have already allowed any of these changes between January 1 and the date you amend the plan, then you are covered.
 - **IT DOES NOT ALLOW RETROACTIVE ELECTION CHANGES/REFUNDS!**



Notice 2020-29

- Relief provided by Notice 2020-15 is retroactive to January 1, 2020
- Relief provided by CARES Act for Telehealth and other remote services is retroactive to January 1, 2020



Notice 2020-33

- Carryover with respect to plan years beginning in 2020 is adjusted based on increases to Health FSA salary reduction maximum
 - 20% of the Maximum Health FSA salary reduction maximum
 - Starts with plan year beginning on or after January 1, 2020
 - \$550 for plan years beginning in 2020
- Amendment required by end of plan year for which it is applicable (e.g. by June 30, 2021 for plan year ending June 30, 2021)



Notice 2020-33

- Relief that allows premiums paid prior to the start of the ICHRA plan year but for coverage provided during the year to be reimbursed
- This notice provides that a plan is permitted to treat an expense for a premium for health insurance coverage as incurred on (1) the first day of each month of coverage on a pro rata basis, (2) the first day of the period of coverage, or (3) the date the premium is paid.
 - Doesn't override the rule that limits reimbursements to premiums only after they have been paid (unless you are paying the carrier directly)