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IRS Grants Midyear Changes to Health, Dependent Care, Flex Spending Accounts

The COVID-19 pandemic has thrown a wrench into many employer-sponsored health, flexible health, and dependent care plans as employees are seeing increased or decreased need, depending on the impact of the pandemic on their families. In response, the IRS is granting employees the ability to make midyear changes to some employer-sponsored health coverage, health flexible spending arrangements (FSAs), and dependent care assistance programs under Notice 2020-29.

Normally, changes are only allowed at the beginning of the plan year or from a qualifying event like marriage, childbirth, or a drastic change in plan cost. Now, employees can make the following changes according to the notice:

1. If employer-sponsored health coverage was initially declined, employees can make a new election on a prospective basis.
2. Employees can make changes to existing health coverage such as individual to family, or one plan type to another.
3. Employees may revoke coverage on a prospective basis with written confirmation the employee will obtain coverage elsewhere.
4. For healthcare FSAs, employees may revoke an election, make a new election, or increase or decrease existing election on a prospective basis.
5. For dependent care accounts, employees may revoke an election, make a new election, or increase or decrease existing election on a prospective basis.

The notice also extends grace periods and carry-overs through year-end. Employees can cover medical expenses incurred through December 31, 2020, using unused funds in health FSAs, and dependent care expenses can be covered for the same period using dependent care assistance funds. Unused FSA or childcare funds as of the end of plan year or grace period may be applied to reimburse medical or dependent care expenses. Additionally, Notice 2020-33 increased the \$500 carry-over amount allowed in most plans to \$550.

Unlike other changes to employer-related programs and benefits in the FFCRA and CARES Act, employers may make these changes at their discretion, though the IRS encourages implementing them.

Employees should note these changes cannot be applied retroactively, however the notice did clarify that reimbursements for telehealth services for high deductible health plans may be applied retroactively to January 1, 2020.