UC RIVERSIDE
Human Resources
Benefits Office

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## New Pandemic Relief for Flexible Spending Arrangement (FSA) Participants

In response to the COVID-19 pandemic, provisions were included in the Consolidated Appropriations Act (CAA) of 2021, signed into law on December 27, 2020, to provide relief to Flexible Spending Arrangement (FSA) participants. On February 18, 2021, the IRS issued guidance pertaining to the FSA provisions of the CAA. These documents provide for employers, at their discretion, to expand employees' opportunities to make changes to their Health and Dependent Care (DepCare) FSAs, and allow flexibility in the use of funds contributed in 2020.

UC has chosen to adopt the provisions outlined below to support employees who were unable to obtain eligible services during the pandemic and whose unclaimed contributions may have been subject to forfeiture absent this relief.

Following are the temporary changes to the FSA rules.

## Health FSA

### *Carry-over of Full Remaining Balance*

The full remaining balance of unused Health FSA funds in a participants' account will be carried over from the **2020** plan year to the **2021** plan year (not limited to $550 as announced last year). This may include amounts carried forward from the 2019 plan year that went unused in 2020. Funds carried forward from 2020 to 2021 will be available in participants' accounts by mid-May 2021.

The full remaining balance of unused Health FSA funds in a participants' account will be carried over from the **2021** plan year to the **2022** plan year. This may include amounts from the 2020 plan year that went unused in 2021. Funds carried forward from 2021 to 2022 will be available in participants' accounts in early January 2022.

The carry-over from plan year **2022** to plan year **2023** will be limited to $550.

- **2020 plan example**: Member Becky is enrolled in the 2020 Health FSA for $2,700. At the end of the 2020 plan year run-out period, Becky has spent $900, leaving her with an available balance of $1,800. The full $1,800 balance will be carried over into the 2021 plan year.
- **2021 plan example**: Member Roberto is enrolled in the 2021 Health FSA for $2,700. At the end of the 2021 plan year run-out period, Roberto has spent $900, leaving him with an available balance of $1,800. The full $1,800 balance will be carried over into the 2022 plan year.

The amount carried forward does not decrease the maximum annual contribution. However, the IRS guidance did not address the impact to taxable income if a participant contributes the maximum amount in a plan year and has funds carried over into that year. The amount above the maximum annual contribution might be considered taxable income. We will share any future guidance on this issue. Plan participants are advised to consult a tax professional.

### *Interaction of Health FSA and Health Savings Account (HSA)*

Individuals may not contribute to an HSA during a month in which they participate in the Health FSA. In addition, if an individual has carry-forward FSA funds from the prior year, they cannot participate in an HSA.

Employees no longer enrolled in Health FSA may opt out of the carryover – that is, forfeit remaining funds – in order to preserve their HSA eligibility.

An individual who revokes participation in the Health FSA under these relief provisions may contribute to an HSA starting the month after their FSA participation ceases (note that an individual must have a PIE to change health plans mid-year).

See below for an additional change that applies to Health FSA – allowance for mid-year election changes in absence of a qualifying life event.

## Dependent Care FSA

### *Grace Period Extension*

The grace period for the **2020** DepCare plan year is extended to 12 months after the end of the 2020 plan year. The grace period for 2020 will end December 31, 2021. The run-out period will extend to January 31, 2022. Therefore, funds contributed in plan year 2020 can be used for reimbursement of claims incurred in calendar years 2020 and 2021, and claims must be submitted by January 31, 2022.

Similarly, the grace period for the **2021** DepCare plan year is extended to12 months after the end of the 2021 plan year. The grace period for 2021 will end December 31, 2022. The run-out period will extend to January 31, 2023. Therefore, funds contributed in plan year 2021 can be used for reimbursement of claims incurred in calendar years 2021 and 2022 and claims must be submitted by January 31, 2023.

- **2020 plan example**: Member Wanda is enrolled in the 2020 Dependent Care FSA for $5,000. At the end of the 2020 plan year run-out, Wanda has an available balance of $1,500. Wanda can continue to incur expenses through December 31, 2021 and can file claims (incurred January 1, 2020 – December 31, 2021) until January 31, 2022.
- **2021 plan example**: Member Jun is enrolled in the 2021 Dependent Care FSA for $5,000. At the end of the 2021 plan year run-out, Jun has an available balance of $1,500. Jun can continue to incur expenses through December 31, 2022 and can file claims (incurred January 1, 2021 – December 31, 2022) until January 31, 2023.

### *Increase in Maximum Age of Eligible Dependents*

The maximum age for eligible dependents under DepCare is temporarily increased to those under 14 years of age. In order to qualify for this relief, an employee must have been enrolled in DepCare in 2020 and have a dependent child who turns 13 during 2020 or 2021. Claims for eligible dependents under the temporarily increased maximum age will be allowed for plan year 2020 and plan year 2021, *but limited to the unused amounts from 2020*. This means that claims incurred in 2020 and 2021 for children 13 years old and younger may be reimbursed from funds contributed in 2020. Funds contributed in 2021 may only be used to reimburse claims for children 12 years old and younger.

## Both Health FSA and DepCare

### *Mid-Year Election Changes without a Qualifying Life Event*

Beginning March 15, 2021, eligible employees will be allowed to modify their plan year 2021 elections prospectively for Health FSA and DepCare plans, as follows:

- Cancel their 2021 participation
- Make a new election for 2021
- Change their 2021 election

The following applies to all election changes:

- Individuals may make no more than two election changes per FSA plan during the 2021 plan year. That is, an employee may make two changes to their Health FSA and two changes to their DepCare election this calendar year. If an exception to this limit is requested due to extenuating circumstances, appeals may be submitted (using the standard process) and will be evaluated on a case-by-case basis.
- If an employee elects to decrease the annual election amount, the new election amount cannot be lower than the amounts deducted year-to-date. Should this occur, the plan administrator will note it on an error report to UCPath, who will contact the employee.
- A decrease in the annual election amount also cannot be lower than the amount already reimbursed for claims in 2021. Should this occur, the plan administrator will note it on an error report to UCPath, who will contact the employee.
- IRS rules continue to prohibit refunds of employee contributions.
- Note that if an employee cancels their FSA participation, they may not file claims for services incurred after the cancellation. Employees wishing to stop their contributions for the remainder of the year but who wish to continue to incur eligible expenses should reduce their annual election to the amount already contributed.
- Changes are prospective and go into effect on the first day of following month, taking payroll deadlines into account.
- The employee has 31 days from the opening date of the event to make changes. The event will close automatically once changes are submitted, or if no action is taken for 31 days. If the employee takes no action, the event can be re-opened during the extended election period.
- Changes must be made in the UCPath system no later than October 29, 2021 in order to apply to the 2021 plan year.

## Implementation of the Relief Provisions

In order the make the changes described above to the carry-over and grace period rules, the current and former FSA administrators, Wex (formerly Discovery Benefits) and WageWorks, will need to impose a 30-day claims processing "blackout" period in which they cannot process claims or issue reimbursements to participants. This blackout period will begin April 16, 2021 and extend no later than the end of May 2021.

During the blackout period, Wex and WageWorks will accept and hold claims until processing resumes.

The customer service teams at both companies will continue to serve participants as usual, and will be able to look up information in their systems to assist participants with inquiries.

## How Eligible Individuals Will Make Plan Changes to FSA Elections

Eligible individuals may request changes to their FSA elections beginning March 15, 2021. Changes may be made until October 29, 2021.

The employee will need to contact the UCPath Center to request an event be opened. Here are the steps the employee will need to follow to ensure the inquiry is routed to the correct team:

- Log in to UCPath online
- From the home page, select *Ask UCPath Center*
- On the menu bar, select *My Inquiries* or *Submit an Inquiry*
- From the inquiry page select:
  - Topic = *Benefits*
  - Category = *Benefits Election Inquiry*
  - For Subject, type in *Request COVID-19 FSA Event*

- For Description, type in *Change election for Health FSA and/or DepCare FSA* (as applicable)

The employee will receive an email notifying them when the event has been opened and they can log in to UCPath to make their desired changes. After making changes, the employee will receive a confirmation statement of their enrollments.

Once the event is opened, the employee will have 31 days to log into the UCPath portal and make their desired changes. The event will close automatically after 31 days if no action is taken.

The effective date of the elections will be the following month after the event was created. For example, for a monthly-paid employee, if an election is changed on March 16, the change is effective April 1 and the new deduction will appear on the April 30 paycheck.

The UCOP Health & Welfare Benefits team will contact all employees who have submitted appeals relating to FSA outstanding balances.