

Flexibility With Mid-Year Sec.125 Elections!

Two IRS Notices To Review Below

IRS Notice 2020-29¹

- Provides for increased flexibility with respect to mid-year elections under a §125 cafeteria plan during calendar year 2020 related to employer-sponsored health coverage, health FSAs and dependent care assistance programs.
- Provides increased flexibility with respect to grace periods to apply unused amounts in health FSAs to medical care expenses incurred through December 31, 2020, and unused amounts in dependent care assistance programs to dependent care expenses incurred through December 31, 2020.

Mid-Year Elections

For mid-year elections made during calendar year 2020, a cafeteria plan may permit employees who are eligible to make salary reduction contributions under the plan to:

1. with respect to employer-sponsored health coverage:
 - a. make a new election on a prospective basis, if the employee initially declined to elect employer-sponsored health coverage;
 - b. revoke an existing election and make a new election to enroll in different health coverage sponsored by the same employer on a prospective basis; and
 - c. revoke an existing election on a prospective basis, provided that the employee attests in writing that the employee is enrolled, or immediately will enroll, in other health coverage not sponsored by the employer;
2. revoke an election, make a new election, or decrease or increase an existing election applicable to a health FSA on a prospective basis; and

¹ <https://www.irs.gov/pub/irs-drop/n-20-29.pdf>

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3. revoke an election, make a new election, or decrease or increase an existing election regarding a dependent care assistance program on a prospective basis
4. For unused amounts remaining in a health FSA or a dependent care assistance program under the cafeteria plan as of the end of a grace period or plan year ending in 2020, the plan may permit employees to apply those unused amounts to pay or reimburse medical care expenses or dependent care expenses, respectively, incurred through December 31, 2020.
5. The notice also clarifies that the CARES Act provisions allowing a high deductible health plan to cover remote care services (Teledoc or similar) before the deductible has been met. This provision applies through the end of the plan year that is effective on or before December 31, 2021. Recently incurred expenses can be applied retroactively to January 1, 2020.

IRS Notice 2020-33²

Unused Amounts

- Increases the carryover limit (currently \$500) of unused amounts remaining as of the end of a plan year in a health FSA that may be carried over to pay or reimburse a participant for medical care expenses incurred during the following plan year. The notice increases the maximum \$500 carryover amount for 2020 or later years to an amount equal to 20% of the maximum health FSA salary reduction contribution for that plan year.
- Under the notice, the health FSA maximum carryover from a plan year starting in calendar year 2020 to a new plan year starting in calendar year 2021 is \$550. (This amount is 20% of the \$2,750 maximum contribution amount for 2020.)

If the above changes are needed, a plan amendment must be created and ratified by the Plan Sponsor (typically an employer). Please contact your IAA Client/Broker

²<https://www.irs.gov/pub/irs-drop/n-20-33.pdf>

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Advocate with any questions and to advise if you would like to move forward with the above changes so that the appropriate amendments can be drafted.

Thank you,
Paul Kelly, President

