



Consolidated Appropriations Act 2021 Optional Plan Changes for Health FSAs & Dependent Care FSAs

For health flexible spending accounts (FSAs) and dependent care flexible spending accounts (DCFSA):

- For plan years ending in 2020, the plan **can permit** a carryover of all unused benefits to the plan year ending in 2021.
- For plan years ending in 2021, the plan **can permit** a carryover of all unused benefits to the plan year ending in 2022.
- For plans that already have a grace period associated with the plan year that ends in 2020 or 2021, that grace period **can be extended** for up to 12 months after the end of the plan year (the normal maximum grace period is 2½ months after the end of the plan year).
- A plan **can permit** an employee who stops participating in the plan mid-year in 2020 or 2021 to continue to receive reimbursements of their unused contributions through the end of the plan year in which their participation ceased. *(If their plan adopts the 12-month grace period, they would also get the extended grace period.)*
- For plan years ending in 2021, participants **can be permitted** to prospectively modify their contribution elections (without regard to a change in status).

For dependent care FSAs only:

- If a dependent "aged-out" during the pandemic, the plan **can substitute** age 13 for age 12 as the maximum age the child could be considered a qualifying person under the plan, as long as:
 - the employee was enrolled in the DCFSA for a plan year where the end of the regular enrollment period was on or before January 31, 2020;
 - the employee had one or more dependents who attained age 13 during the plan year; and
 - the employee had an unused balance for a plan year that will be carried forward to the subsequent plan year.

To adopt the temporary relief:

- Health FSAs and DCFSA **must be amended** by the last day of the first calendar year beginning after the end of the plan year in which the amendment is effective (e.g., calendar year 2020 plan amendments must be adopted on or before December 31, 2021). In the interim, the plan **must operate** consistent with the terms of the amendment.