



FOCUS Newsletter

May 13, 2020 – SPECIAL RELEASE



NEW IRS NOTICES

Yesterday, the Internal Revenue Service issued two new notices (Notice 2020-29 and Notice 2020-33) related to Section 125 cafeteria plans (premium only plans and flexible spending account (FSA) plans).

The notices allow (not require) employers to modify Section 125 plans to provide employees with greater flexibility than normal due to the COVID-19 pandemic. If you are considering some of these changes, you should consult with your benefit advisor as these decisions may include or affect other benefit plans. Listed below are the general outlines of the notices as well as links to the notices.

NOTICE 2020-29

What are the major items contained within this notice?

- Extends the time frame for **incurring** claims through December 31, 2020
 - Applicable to all FSAs (health care, limited purpose health, and dependent care)
 - Applicable to a plan year ending in 2020
 - Applicable to a plan with a grace period ending in 2020

- Allowing employees to make **prospective** mid-year election changes without a qualifying change in status (including new enrollments, increasing coverage, decreasing coverage, or terminating coverage)
 - Only allowed prior to December 31, 2020
 - Can be applicable to health care, limited purpose health, and dependent care FSAs
 - Provides the ability to keep a participant from dropping contributions below the amount that has already been reimbursed
 - Can be limited to a certain time frame (for instance, you could provide employees with a 30 day window to make these changes)
 - Can be applicable to enrollment changes for health insurance plans (of course, you would need to check with your carrier before proceeding) – this simply allows for the corresponding change in premium cost to occur on a pre-tax basis

- Allows high deductible health plans to cover expenses related to COVID-19 as well as telehealth services retroactive to January 1, 2020

Will our plan document need to be amended if we decide to allow these or some of these changes? Yes. The notice states that the plan amendment can be retroactive back to January 1, 2020 but must be adopted on or before December 31, 2021.

Link to Notice 2020-29: <https://www.irs.gov/pub/irs-drop/n-20-29.pdf>

NOTICE 2020-33

What are the major items contained within this notice?

- Increases the amount of unspent funds that can be carried over from a previous year's health care FSA or limited purpose health FSA from \$500 to \$550 for plan years beginning on or after January 1, 2020
 - This amount will be adjusted annually for inflation

Will our plan document need to be amended if we decide to allow these or some of these changes? Yes. The notice states that the plan amendment can be retroactive back to January 1, 2020 but must be adopted on or before December 31, 2021.

Reminders: A health FSA plan can only offer the carryover option or the grace period option – not both. The dependent care FSA is not allowed to provide a carryover option.

Link to Notice 2020-33: <https://www.irs.gov/pub/irs-drop/n-20-33.pdf>

About the Company: ASIFlex and ASI COBRA provide third-party benefit administration service solutions to clients nationwide. ASIFlex provides account-based administration for Flexible Spending Accounts (FSAs), Health Reimbursement Arrangements (HRAs), Health Savings Accounts (HSAs) and Parking/Transit Commuter Benefits. ASI COBRA provides COBRA and direct/retiree billing solutions. Formed in 1983, ASIFlex specializes in serving public and private sector clients nationwide and has significant experience with State, County, City and local government entities. ASI focuses on providing exemplary customer service and leveraging technology to provide improved service delivery. The companies are not law firms or tax advisors.

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