New IRS Guidelines

The IRS has released new guidance for Health Benefit Accounts and more.

The IRS has released Notice 2020-29 and Notice 2020-33, which have major implications for cafeteria plans, health benefit accounts, high-deductible health plans (HDHPs) and more.

Cafeteria Plans

Although not required to do so, you may amend your cafeteria plan to permit employees to make the following prospective mid-year changes:

- Make a new election to participate in employer-sponsored health coverage if they initially declined such coverage
- Revoke a previous election for employer-sponsored health coverage and enroll in other employer-sponsored coverage OR provide in writing that they are covered by non-employer-sponsored coverage
- Revoke an election, make a new election, or increase or decrease an election to a healthcare flexible spending account (FSA) or dependent care assistance FSA (DCA)

This special accommodation will apply retroactively to mid-year changes made after Jan. 1, 2020, and expires on Dec. 31, 2020.

Healthcare FSAs and DCAs

- **Grace period extension**. You may amend your plans to allow employees to use unused amounts in their FSAs and DCAs as of Dec. 31, 2019, to pay for expenses incurred before Dec. 31, 2020 – thereby extending the grace period a full year. The extension for incurring claims is available to both cafeteria plans that have a grace period and plans that provide a carryover.

  Note: This extension may be problematic for employees who have also contributed to a health savings account (HSA) in 2020. Those with unused 2019 FSA amounts as of the date of the grace period could use those funds to pay for healthcare expenses below the HSA-eligible HDHP deductible amount in 2020, thus making them ineligible to make HSA contributions.

- **Carryover increase.** The carryover amount for FSAs has increased from $500 to $550 to account for inflation. You must adopt a plan amendment by Dec. 31, 2020, and this can be retroactive to the 2020 plan year.

HSA-eligible HDHPs

- **COVID-19 testing and treatment.** The IRS previously issued Notice 2020-15, which allows HSA-eligible HDHPs to cover COVID-19 testing and treatment at 100%, with no cost-sharing to employees, even before the deductible is met. The new notice clarifies that this includes expenses incurred after Jan. 1, 2020, as well as which expenses are considered COVID-19 testing and treatment.

- **Telemedicine.** The Coronavirus Aid, Relief, and Economic Security (CARES) Act allows HSA-eligible HDHPs to cover telehealth services at 100%, with no cost-sharing to employees, even before the deductible is met. The new notice clarifies that this includes telehealth services provided after Jan. 1, 2020.

Individual Coverage Health Reimbursement Arrangements (ICHRAs)

This notice provides that an ICHRA is permitted to treat healthcare premiums as incurred on:

- the first day of each month of coverage
- the first day of the period of coverage
- the date the premium is paid

With this guidance, payment of the premium for coverage made before the beginning of the plan year can be reimbursed if the insurance coverage starts during the plan year.

Questions?

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