COVID-19 and Impact on Health Savings Accounts and Flexible Spending Accounts

TRI-AD is receiving questions regarding the impact of the coronavirus, COVID-19, on health savings accounts and health care and dependent care flexible spending accounts. Below are answers that should address your questions and any questions from your employees. Employers should review their current cafeteria plan documents and leave policies to make sure the answers comply with your plan documents and policies. Also, TRI-AD will be posting similar information on our site for HSA and FSA participants.

If additional legislation and/or regulations are published that impact the information below, we will inform you at that time. If you have additional questions, please contact your TRI-AD Client Service Manager.

Health Savings Accounts (HSA)

How does COVID-19 affect an HSA?
In summary, coronavirus testing and treatment are considered a qualified medical expense under an HDHP, and individuals can use their HSA to pay for any out-of-pocket expenses. On March 11, 2020, the IRS issued Notice 2020-15 addressing HDHP status related to COVID-19 testing and treatment. The Notice allows HDHPs to cover testing and treatment for COVID-19, pre-deductible, without jeopardizing the status of the HDHP for purposes of HSA eligibility. Specifically, the new IRS guidance provides relief for all HDHPs confirming that they will not fail to maintain HDHP status if they provide medical care services and items purchased related to testing for and treatment of COVID-19 prior to the satisfaction of the applicable minimum deductible. Again, this means coronavirus testing and treatment are considered a qualified medical expense under an HDHP, and individuals can use their HSA to pay for any out-of-pocket expenses.

Employers should check with their benefits consultants/brokers to determine the impact of the IRS Notice 2020-15 on your HDHPs and whether your plans will cover the COVID-19 services and expenses prior to meeting the minimum deductible.

Health Care Flexible Spending Accounts (HCFSA)

Are expenses related to COVID-19 eligible for reimbursement in a HCFSA?
Out-of-pocket health care expenses incurred by employees due to the COVID-19 are eligible health care expenses and can be reimbursed by their HCFSA.

Can an employee change their HCFSA annual election due to COVID-19 issues?
There are two situations where an employer may allow HCFSA annual election changes.

- **Work suspension** – if the employer suspends the operations of its business, and the employees will not be paid during this suspension, this may qualify as an unpaid leave and employees may be allowed to revoke their HCFSA election. However, if there is no change in the underlying health benefit plan for the employee, an employee cannot change their HCFSA election. For example, if an employer suspends employees' work schedules for 2 weeks but continues their health benefits, an employee cannot change their HCFSA elections. If the employee will continue to get paid during the suspension, we do not believe the current law and regulations allow a participant to change their HCFSA annual election as this would not fall under the existing qualifying event allowable changes.

- **Employee contracts COVID-19** – if the employee contracts the virus, an employer should look to their cafeteria plan document and current leave policies for changes in elections.

Dependent Care Flexible Spending Accounts (DCFSA)

Can an employee change their DCFSA annual election due to COVID-19 issues?
In summary, DCFSA elections can be increased or decreased due to a change in the employee's or spouse's work schedule. Schools and day care providers may be closed for a period of time due to COVID-19, which may cause a change in dependent care expenses for employees. Parents may not be paying for dependent care during this period if their children are at home and the parents are working remotely from home or have temporarily stopped working. Based on the current IRS regulations and comments made by the IRS, DCFSA elections can be increased or decreased due to a change in the employee's or spouse's work schedule. The DCFSA annual election allowable change is based on the circumstances of the employee. If the child is no longer at day care and therefore the annual day care costs will be lower for a parent, an employee may decrease their DCFSA annual election. If the employee hires a nanny and dependent care costs increase, the employee may increase their DCFSA annual election.

How long does a participant have to make a change to their DCFSA election?
The IRS is more lenient on DCFSA election changes than with other FSA election changes, so employees should be able to change their DCFSA election based on their circumstances. Employers can apply the same timing as other election changes, e.g., 30 days after the event, and base the event on the date the employee's child returns to normal school/day care activities.

Can dependent care expenses be incurred and eligible for reimbursement if a parent is home and not working during a mandated employer work suspension?
The IRS has strict rules that indicate an employee must be gainfully employed or seeking employment for dependent care expenses to be eligible for reimbursement. If parents are not working due to a COVID-19 work suspension, any day care expenses incurred during this time would not be eligible for reimbursement. However, the IRS makes an exception if the absence is 2 weeks or less. If employees or spouses are not working during a period when their employer suspends operations, and if the temporary suspension does not last more than 2 weeks, dependent care expenses incurred during this 2-week period should be eligible for reimbursement. If the suspension of work lasts longer than 2 weeks, dependent care expenses incurred during the entire suspension are not eligible for reimbursement unless the employee is seeking employment or gainfully employed after the 2 weeks (e.g., the employee/ spouse is looking for work or found a temporary job during the work suspension).

What if an employee is working remotely and incurs day care costs?
If an employee is working remotely and the employee is incurring dependent care expenses (e.g., expenses for a nanny or their child attends a day care center that has not closed), these expenses should be eligible for reimbursement. This is because the employee is considered gainfully employed, working from home. However, if there is a non-working spouse at home, the dependent care expenses would not be eligible for reimbursement.

What if an employee contracts COVID-19 and is not able to work for an extended period of time?
If the absence is longer than 2 weeks, any dependent care expenses incurred during the absence would not be eligible for reimbursement as illness is not a reason you may continue to incur dependent care expenses during a leave. If the employee is out longer than 2 weeks, an employer should look to their cafeteria plan document and current leave policies for changes in elections.