



As you are probably aware, an economic stimulus package, also known as the Coronavirus Aid, Relief, and Economic Security Act or CARES Act, was signed into law last week to assist Americans and American businesses in the wake of the COVID-19 pandemic. The CARES Act created new laws and guidelines, as well as made some revisions to the previously enacted Family First Coronavirus Response Act (FFCRA).

There are a few important provisions in this bill that will affect HSAs, HRAs and FSAs in positive way. Below are changes to those benefits that will be effective immediately:

- **Over-the-counter drugs and medicines (OTC) no longer require a doctor's prescription in order to be paid for or reimbursed through an FSA, HRA or HSA.** This means that participants in a health FSA, certain HRAs, and HSAs can now use the benefit to pay for items like cold medicine, allergy medicine, OTC pain relievers, among many others, without having to make an extra trip to the doctor to receive an RX (prescription) for those OTC items. This *reverses* the law that was enacted in 2011 as part of the PPACA, making an RX required for OTC items to be purchased with an FSA, HRA, or HSA. This new OTC guideline is effective immediately and retroactive to January 1, 2020.
- **Menstrual care products are now eligible to be paid for or reimbursed through an FSA, HRA or HSA.** This welcome change will allow participants in health FSAs, certain HRAs, and HSA participants to use their benefit to pay for menstrual care products, which are described as “tampon, pad, liner, cup, sponge, or similar product used by individuals with respect to menstruation”, as they will now be considered qualified expenses. This new guideline is effective immediately and retroactive to January 1, 2020.
- **HSA qualified High Deductible Health Plans (HDHP) can now cover telehealth and other remote care service expenses below the HDHP minimum statutory deductible, for a limited period of time.** This means that participants in an HDHP with HSA may use their plan for any telehealth services prior to reaching the applicable deductible and it will *not* without risk the plan's status as a high deductible health plan, and won't affect the accountholder's eligibility to contribute to their HSA. This provision will last until December 31, 2021.

We will provide more details on these changes and how they will be administered as they become available. We are currently working to update eligible expenses listings for these benefits, provide a plan amendment (SMM) to update our company's Plan Documents with these provisions, among other items and will have those to clients as soon as possible.

As an additional note, we've included information below regarding potential election changes for healthcare and dependent care Flexible Spending Accounts to help any address any questions you may be receiving:

- **Health (Medical and Limited) FSAs:** At this time, the IRS has not provided any updates or changes to the Section 125 election change requirements. This means that changes made to a group health plan in response to FFCRA or CARE requirements will not likely permit a health FSA

election change. In some case though, an employment status change may trigger an election event. While employers may amend their plans to extend the run-out period for claims-filing purposes, which BMS has already extended to April 15<sup>th</sup>, 2020 for our 1/1 groups, an extension of the permitted grace period beyond 75 days or increase in the \$500 health FSA carryover would require further action from the IRS. *BMS will continue to monitor future runout periods for our clients as needed to possibly extend filing deadlines as appropriate.*

- **Dependent care FSA:** For employees participating in the DCFSA that be working from home, or have had their daycare facilities closed temporarily, those unforeseen changes are considered qualifying events resulting in a need to change their DCFSA election. The Section 125 election change rules provide quite a bit of flexibility for employees to change their dependent care FSA elections due to changes in work or daycare status, so please contact BMS regarding changes for your DCFSA participants and we will work with you to make those updates.

As always, BMS is committed to serving our clients and participants; we are available to answer any questions you may have during this time. We look forward to providing more details on these benefit updates, as they become available.