Plan Configuration and Permitted Election Changes

The passage of Families First and CARES acts have brought many changes and many opinions about what benefit plan changes can or cannot be made. Some, but not all or even most, are correct.

First, benefit plans can and do change. It is the plan sponsor's right to do so. Certain plan changes create and opportunity for election changes that better meet the health, wealth and well-being needs of plan participants. Second, circumstances change. Certain ones give rise to permitted election changes by plan participants.

Before making changes consider the following. Then work with TASC or your plan professional to review terms, processes, and procedures. Finally, make changes to better fulfill the plan mission and participant needs.

Why should you consider making a change?

Notice 2020-29 provides five (5) instances where a plan sponsor's or employer's amended Section 125 plan may allow mid-year election changes to ordinarily would not be permitted. Under this new ruling, employees can change or make a new election in the circumstances below:

1. Enroll in an employer's health plan mid-year if the employee originally declined coverage during open enrollment.
2. Change their health plan election to enroll in a different plan option and/or enroll dependents.
3. Revoke their health plan election, as long as the employee attests in writing that the employee is enrolled (or will immediately enroll) in other coverage not sponsored by the employer. The IRS has provided a template to use for employee attestations.
4. Revoke, decrease, make, or increase a healthcare FSA election. This applies to both general and limited purpose healthcare FSAs. The Notice also confirms that employers can prohibit an election to decrease healthcare FSA coverage to less than has already been reimbursed.
5. Revoke, decrease, make, or increase a dependent care FSA election.

Please note: these changes are *optional* for employers and required a Plan Amendment/Summary of Material Modification (SMM) should the employer want to extend these changes for their employees. A plan can be amended to implement all of these rules, none of them, or just a few.

Things to Know:

- **Make sure your plan allows for the reimbursement of FDA-approved COVID-19 testing expenses**

  Consider the following regarding COVID-19 related diagnostic expenses:

  – Federal regulations mandate that FDA approved COVID-19 diagnostic testing and related expenses (urgent care visits, etc.) be covered by health plans.

  – Your Healthcare FSA is considered a health plan.

- **Permitted Election Changes**

  A multitude of events can trigger a permitted election change by a plan participant. Changes in status, including a change in the employment status of a spouse or dependent, or a significant cost or change in coverage (including a change that improves a benefit option), are two of the six major permitted election triggers.

  In the event of a significant change in coverage, such as a plan now covering over-the-counter medications and menstrual hygiene products, the participant may “revoke their election under the cafeteria plan and, in lieu thereof, to make an election on a prospective basis for coverage under the new or improved benefit package option.” The governing law, as in the case of transit benefit accounts and dependent care accounts, may also authorize plan election changes.

  When exercising a permitted election change under such circumstances, there are things to consider.

  Consider the following:

  – Whether the employee may have increased COVID-related medical needs care and need to increase their election.
  – Whether the employee may have decreased medical needs as they are forced to put off non-elective care to a later time, maybe even until a new plan year.
  – Whether the employee who was FSA-eligible but waived coverage at the beginning of the year may be faced with unforeseen COVID-19-related expenses.
  – Whether the employee’s transit expenses have increased or decreased.
  – Whether the employee’s dependent care expenses have decreased or increased, or the day care fees are due and payable even if the child is kept at home in lieu of day care center services
  – **Deadline for employee 2019 HSA Contributions** has been extended by the Internal Revenue Service (IRS) from April 15 to July 15, 2020.
  – **Over-the-Counter (OTC) drugs and medicines are now reimbursable going back to Jan. 1, 2020:** Employees can now be reimbursed for OTC Drugs and Medicines, as well as menstrual care products.

Additional Resources

We want to help! You don't need to be a TASC customer to call our hotline or download our helpful documents.

General questions on this information	Want us to make changes to your TASC plan?	Want guidance for another benefits TPA?
Call our Special Forces COVID-19 hotline: Call 1-833-433-1002	Contact us to do all or part of this work effort for you: 1-888-595-2261, or Get Started.	Share our How-To document with your administrator: Get Started.

Notes for TASC customers:

- **Changes to Elections must be requested at least two weeks prior notice.** Due to high demand for plan changes, TASC requires a two-week notice to make the requested election changes. Clients may also make any necessary election changes via their online access.
- **Election changes can be applied for many accounts.** Election changes are commonly used for Dependent Care and Healthcare FSA (includes Limited Purpose FSAs), HSA, HRA, Parking, and Transit accounts.

  Consider the following:

  - Employees will now be able to purchase and be reimbursed for OTC drugs and medicines (e.g., aspirin, allergy medicines, and menstrual products).
  - While it will take a while for retailers to update their system, which is required for the TASC Card to work for these items, the employee can still submit for reimbursement online.
  - Employees that have expenses from the previous plan year and cannot locate missing receipts from insurance carriers, doctors, and hospital as the COVID-19 crisis has assigned these tasks a low priority.
  - Employees may need extra time to get the required documentation for expenses in order to avoid forfeiting their funds.

Why TASC?

For more than 40 years, TASC has been a leader, an innovator, and a partner of employers committed to ensuring the health, wealth and well-being of their employees and their employees' families and community. TASC was a pioneer in assisting sole-proprietor farmers and small businesses save billions in tax dollars through the adoption of health reimbursement plans; challenging many ill-informed IRS auditors, accountants, and naysayers along the way. TASC, through FlexSystem, brought the idea of a Cafeteria Plans to large and small businesses; challenging the notion that such plans were burdensome, complicated and difficult to administer.

There from the beginning of Section 125, TASC has brought its knowledge and expertise forward with the idea that together we can improve lives of many, strengthen our communities, and make benefits feel like benefits. TASC understands that each employers circumstance is different. TASC offers its guidance based upon the wealth of its experience as an employer and as a benefits administrator. It is not legal or tax advice and should not be taken as such but is offered to prompt knowledgeable inquiry of your plan professionals and provoke thoughtful plan decision making.

TASC provides its clients with an audit guarantee with respect to serviced tax advantaged accounts. Subject to certain conditions and restrictions, this guarantee provides that in the event a client suffers an adverse finding by the IRS or Department of Labor, despite following TASC's plans and procedures, resulting in interest charges and/or assessed penalties, such interest and penalties will be covered by the guarantee.