







Flexible Spending Account Extension

In Notice 2005-42, released May 18, 2005 the IRS announced modifications to Section 125 Cafeteria Plan rules.

Summary of Action

This change allows FSA participants to use an “extension” of time to incur and submit claims for a plan year. Participants may now have as long as 14 months and 15 days (thus the “two and one half month rule”), to use up the funds in their FSA account to avoid “use it or lose it”. If unused after this extension, the provisions of “use it or lose it” apply.

This extension is available at the option of each plan sponsor/employer. An Employer with a plan year ending on June 30, 2009, must amend the plan document before June 30th to permit the extension period for the following plan year. Please email your request to pjamrog@benstrat.com and Benefit Strategies will email you the necessary forms for your signature.

-  This action must be available to all plan participants, not selectively.
-  Funds remaining in the FSA cannot be transferred between health and dependent care accounts.
-  The *FlexExpress* debit card is able to process transactions incurred during the extension period. The card has been programmed to prioritize the use of an available balance in the prior year and to draw on these funds first.
-  Currently, most clients have a grace period of 90 days to submit claims incurred in the prior plan year. This grace period will remain in place as is. It will not begin following the “two and one half month rule” extension it will be parallel with the extension.

Example #1:

An employee named Chris elected salary reduction of \$1,000 for a health FSA for the plan year ending June 30, 2009. As of June 30, 2009, Chris still has \$200 remaining unused in his health FSA. On June 1, 2009 during open enrollment, Chris elected salary reduction for a health FSA of \$1,500 for the upcoming plan year ending June 30, 2010. On August 1st, which is during the extension period from July 1, 2009 through September 15, 2009, Chris incurs \$300 worth of eligible medical expenses. \$200 will be reimbursed from the plan year ending June 30, 2009 and the remaining \$100 of the total \$300 will be applied to the plan year ending June 30, 2010. Therefore, as of September 16, 2009, Chris has no unused money remaining in the account ending June 30, 2009, and Chris has \$1,400 remaining in the health FSA for the plan year ending June 30, 2010.

Example #2:

The same facts as Example (1) apply, except that Chris incurs \$150 of eligible medical expenses during the extension period (July 1, 2009 through September 15, 2009). As of September 16, 2009, Chris has \$50 of unused benefits or contributions remaining for the plan year ending June 30, 2009. The unused \$50 cannot be cashed-out, converted to any other taxable or nontaxable benefit, or used in any other plan year (including the plan year ending June 30, 2010). The unused \$50 is subject to the “use-it-or-lose-it” rule and is “forfeited.” As of September 16, 2009, Chris has the entire \$1,500 elected in the health FSA for the plan year ending June 30, 2010.