

CARES ACT EXPANDS QUALIFYING MEDICAL EXPENSES

THE CARES ACT REPEALS THE ACA'S MEDICINE CABINET TAX, ALLOWING INDIVIDUALS TO USE THEIR MEDICAL SPENDING ACCOUNT TO PURCHASE **CERTAIN** OVER-THE-COUNTER PRODUCTS AND MEDICATIONS.

On March 27, 2020, the U.S. Congress passed the Coronavirus Aid, Relief and Economic Security Act (CARES Act) to provide \$2.2 trillion in federal funding to address the COVID-19 crisis. The president signed the CARES Act into law the same day.

In addition to providing direct financial assistance to Americans, the CARES Act repeals the Medicine Cabinet Tax provision of the Affordable Care Act (ACA), expanding the list of qualifying expenses that can be purchased with health savings accounts (HSAs), health reimbursement arrangements (HRAs) and flexible spending accounts (FSAs).

What Was the Medicine Cabinet Tax?

Under the ACA's Medicine Cabinet Tax, only prescription drugs were considered to be qualifying medical expenses. Over-the-counter medications like cold and flu medicine, anti-inflammatories, allergy treatment and menstrual care products were not considered to be qualifying medical expenses. As a result, those with HSAs, HRAs or FSAs could not use their tax advantaged accounts to pay for Over the Counter Expenses.

CARES Act and Qualifying Medical Expenses

Under the CARES Act, the definition of a qualifying medical expense now includes certain over-the-counter medications and products. Specifically, the act treats additional over-the-counter medications, along with menstrual care products, as qualified medical expenses that may be paid for using HSAs or other tax-advantaged accounts.

As such, the CARES Act, which took effect on March 27, 2020, permits reimbursement of over-the-counter products and medications without the need of a prescription. This expansion is retroactive to January 1, 2020 for newly eligible expenses.

FSA Plans: Retailers will likely take several months to re-code items for debit card use. In the meantime, participants can submit receipts for manual claim reimbursement.
Health Savings Accounts: Since the debit card for an HSA will not feature a healthcare-specific merchant code, the card can be used immediately for newly eligible expenses.

For more information on your medical spending account, please contact your plan administrator.

EXAMPLES: NEWLY COVERED EXPENSES

Menstrual Products:

- Tampons
- Sanitary napkins/pads
- Menstrual cups

Over the Counter (OTC) Medications – no prescription required:

- Cough/cold medicine
- Pain relievers
- Allergy medicine
- Acid reflux medicine
- Oral pain relief gel
- Antacids
- Stool softener
- Aspirin
- Anti-diarrheal medicine
- Antibiotic ointment

FREQUENTLY ASKED QUESTIONS

In addition, there were some changes to Flexible Spending Dependent Care Accounts and contributions for Flexible Spending Health Accounts. Please see Frequently Asked Questions for more details on all of the changes. PLEASE NOTE: Some of the changes may not apply to the Flexible Spending Accounts or options offered by your employer.

WITH SO MANY SCHOOLS AND DAYCARES SHUTTING DOWN, WE HAVE RECEIVED A NUMBER OF QUESTIONS REGARDING IF AN EMPLOYEE'S DEPENDENT CARE FACILITY CLOSES, IS THAT A QUALIFIED LIFE EVENT AND CAN AN EMPLOYEE STOP THEIR CONTRIBUTIONS TO THE DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT (DCA)? ALSO, WHEN THE DAYCARE REOPENS, WOULD THAT BE CONSIDERED A QUALIFIED EVENT AND THEN EMPLOYEES CAN ELECT AND MAKE A NEW CONTRIBUTION TO THE DCA?

Yes, this is considered a qualifying event. Even if the employee is working from home and keeping their child at home, since they are no longer making payments to the daycare, that is a change in the amount owed to the DCA (which is a qualifying event).

CAN AN EMPLOYEE OPEN A DCA NOW THAT SCHOOL IS CLOSED, AND THEY ARE IN NEED OF CHILDCARE?

Yes. If an employee doesn't have a DCA but now needs to pay for childcare, they can open a DCA to cover IRS-approved DCA expenses.

DUE TO SCHOOL CLOSINGS, HAS THE IRS ISSUED ANYTHING REGARDING EMPLOYEE'S BEING GRANTED AN EXTENSION TO USE DCA FUNDS?

At this time, the IRS has not issued guidance regarding extensions for the use of DCA funds. We are closely monitoring any changes the IRS may make and will be sure to communicate updates to employers as soon as possible. Employees can stop their DCA deductions if their daycare closes, as this is considered a qualifying event.

DUE TO A BUSINESS TEMPORARY SHUTDOWN, NO PAYCHECKS WILL BE ISSUED DURING THIS TIME PERIOD. THEREFORE, CONTRIBUTIONS FOR ALL FLEX PLANS WILL NOT BE ABLE TO BE MADE - SHOULD THEY ALL JUST DO CATCH-UP CONTRIBUTIONS ONCE THEY RETURN TO WORK?

Yes, catch up contributions can be made once the participants return to work.

IF STATE GOVERNORS/THE PRESIDENT ORDERS A STOP ON ALL NON-ESSENTIAL MEDICAL PROCEDURES ARE WE COMPLIANT IF WE ALLOW OUR POPULATION TO DECLINE/DECREASE GENERAL PURPOSE HEALTH CARE ENROLLMENT MID-YEAR? ALSO, IF THEY ORDER A STOP ON ALL DENTAL/VISION PROCEDURES ARE WE COMPLIANT IF WE ALLOW OUR POPULATION TO DECLINE/DECREASE LIMITED PURPOSE HEALTH CARE ENROLLMENT MID-YEAR?

There has been no update about this being able to happen. We are closely monitoring any changes the IRS may make and will be sure to communicate to employers as soon as we receive guidance.

WILL THERE BE A CLAIMS EXTENSION BEYOND THE STANDARD MARCH 31 DEADLINE?

At this time, there is no change to the March 31 deadline. This only applies to plans that have a claim run-out deadline of March 31. If there are any changes issued by the federal government, we will communicate them with you and make the recommended updates accordingly.

I HAVE AN FSA DEBIT CARD FOR MY HEALTHCARE FLEX ACCOUNT. WHY IS MY FSA DEBIT CARD BEING DECLINED WHEN I TRY TO BUY OVER THE COUNTER MEDICATIONS OR MENSTRUAL PRODUCTS?

Retailers are updating their systems to allow FSA, HSA, and HRA debit cards to purchase these items. In the meantime, you can save your receipt and submit a manual flexible spending claim for reimbursement.