

Consolidated Appropriations Act 2021

Summary

On December 27, 2020, the latest COVID relief bill, the Consolidated Appropriations Act, 2021, was signed into law. The law includes several provisions that provide relief for health and dependent care flexible spending accounts. **Employers may, but are not required to**, permit the following:

- Carryover of unused funds, with no dollar limit, from a plan year ending in 2020 and/or 2021 to a plan year ending in 2021 and/or 2022; or
- Extension of the grace period to up to 12 months after the end of the plan year for a plan year ending in 2020 and/or 2021.

The above may be selected for both health and dependent care FSAs.

- Employees who cease participation in a health FSA during calendar year 2020 or 2021 may continue to receive reimbursements from unused benefits or contributions for claims incurred through the end of the plan year in which such participation ceased (including a grace period if applicable).
- Increase the maximum age (by one year) for certain dependent care beneficiaries who aged out during 2020, and provide additional relief for such dependent care beneficiaries in 2022.
- Prospective modification of election amount for health and dependent care FSAs for a plan year ending in 2021.

As stated above, these provisions are **NOT** mandates but are options for employers to consider. An employer must elect these options in order for them to be applicable. Plan amendments must be made by the end of the first calendar year beginning after the end of the plan year in which the amendment is effective (for example, calendar 2020 plan amendments must be adopted on or before December 31, 2021), provided the plan is operated consistent with the terms of the amendment beginning on its effective date.

Please note that while we wanted you to be aware of the provisions in the law and have a chance to consider them, the law is quite voluminous and we are anticipating additional forthcoming IRS guidance. Once we have further clarification, we will better be able to provide you with best practices and pricing for the adoption of these options. In addition, NBM cannot provide legal or tax advice regarding this law or its requirements. For those questions, you should consult your own counsel.