

IRS Guidance Clarifies FSA Rules

March 2, 2021

Since the passage of the [Consolidated Appropriations Act, 2021 \(CAA\)](#) in December 2020, employers and administrators have been working to interpret the new flexible spending account (FSA) rules. The IRS has recently released new [FSA rules guidance](#) that clarifies the law's ambiguous language and provides important details about how the CAA's FSA relief provisions work, along with specific examples.

Typically, money contributed to FSAs must be used during that plan year. However, the constraints and restrictions of the COVID-19 pandemic left many plan participants with money that they weren't able to spend. The CAA sought to provide some relief from this disruption.

The CAA provides new temporary rules that give sponsors of FSAs the option to be more flexible when dealing with their participants' unused funds in these account-based plans. Among other provisions, these rules allow plan sponsors to carry over unused amounts remaining in health FSAs at the end of the applicable plan year. While these

rules presented new options, they also left employers with many questions.

For full details on the new guidance, visit our [Employee Benefits Compliance Resource Center](#) for our Compliance Team's Compliance Alert.

For example, the new guidance clarifies that when implementing a carryover under these new rules, plan sponsors are permitted to limit the carryover amount to an amount that is less than "all unused amounts at the end of the plan year" and may limit the carryover to apply only up to a specified date during the plan year.

The guidance is generally effective retroactively for both the 2020 and 2021 plan years, even if those plan years end in 2022 (e.g., non-calendar year plans).

Employers and plan sponsors interested in taking advantage of the relief should discuss these rules with their FSA administrators, third-party administrators, and other trusted health plan advisors and ensure that any proposed changes are in line with these rules. ■

Follow the conversation with us on [LinkedIn](#).

For more information, please call: [877.426.7779](tel:877.426.7779)