STATE OF WISCONSIN
Department of Employee Trust Funds
Robert J. Conlin
SECRETARY

Wisconsin Department
of Employee Trust Funds
PO Box 7931
Madison WI 53707-7931
1-877-533-5020 (toll free)
Fax 608-267-4549
etf.wi.gov

Correspondence Memorandum

Date: June 6, 2020

To: Group Insurance Board

From: Xiong Vang, HSA & ERA Accounts Program Manager
Office of Strategic Health Policy

Subject: Flexible Spending Accounts Carryover Limit Increase

The Department of Employee Trust Funds (ETF) requests the Group Insurance Board (Board) approve the increase of health care and limited purpose flexible spending account carryover balance to $550 effective January 1, 2021.

Background

The Internal Revenue Service (IRS) released Notice 2020-33 guidance on May 12, 2020, which gives employers the option to amend their Section 125 Cafeteria Plan to increase the carryover for Flexible Spending Account (FSA) to $550 for the 2020-2021 plan year. The increase reflects indexing for inflation, and this indexing parallels the indexing that applies to the limit on salary reduction contributions under Section125(i).

If approved by the Board, this change would allow for participants in a Health Care FSA and Limited Purpose FSA eligibility for the increased carryover effective in 2021 plan year and future years.

The State of Wisconsin Section 125 Cafeteria Plan Document allows up to $500 to be carried over at the end of the run-out period each year. ETF has established a run-out period following the end of the plan year where eligible expenses incurred during the plan year can be claimed up to 90 days (January 1 through March 31) after the plan year has ended. A run-out is a period that immediately follows the end of a plan year during which a participant may request reimbursement of expenses incurred for qualified benefits during the plan year.

Any remaining FSA balance greater than the carryover provision after the run-out period has ended is forfeited back to the program and held in trust by the Plan Administrator. If an employee terminates their FSA prior to the end of the plan year, any unused funds are forfeited. ETF uses the forfeitures to pay for expenses of administering the FSA plan in accordance to IRS Regulation (See Prop. Treas. Reg. § 1.125-5).

Reviewed and approved by Eileen K Mallow, Director, Office of Strategic Health Policy

Eileen K Mallow Electronically Signed 6/15/20

Board	Mtg Date	Item #
GIB	6.29.20	4A

FSA Use It or Lose It Rule

FSAs are subject to the use-or-lose rule that requires unused contributions greater than $500, or upon employment termination, remaining in an employee's account at the end of the run-out period to be forfeited by the participant. FSA annual elections are front-loaded, and the full annual election is made available to the participant at the beginning of the plan year. The IRS requires that FSA annual election is made for the entire plan year unless the participant experiences a qualifying life event which enables them to make a change to their FSA annual election.

Proposed FSA Carryover Limit

ETF proposed the increase of the FSA carryover because it aligns with the Triple Aim guiding principle for program development, which consists of program quality, quality of life, and program cost (Ref. GIB | 11.13.19 | 5D). Participants are facing unforeseeable circumstances related to health expenses in this pandemic crisis. This change would allow participants to have an additional $50 carryover from the current carryover provision. The opportunity to incorporate an increase of the FSA carryover puts the benefit program in line with standard IRS guidance, and there are no additional costs or challenges to increasing FSA carryover.

ETF will communicate with members, and employers and other stakeholders about this increase in the FSA carryover in preparation for 2021 Open Enrollment.

Staff will be at the Board meeting to answer any questions.