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Correspondence Memorandum

Date: April 22, 2022

To: Group Insurance Board

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

Subject: Flexible Spending Account/Commuter Benefits Minimum Election & Carryover

The Department of Employee Trust Funds (ETF) requests the Group Insurance Board (Board) approve a minimum annual election amount of \$50 for flexible spending accounts (FSAs) and commuter benefits with any balances less than \$50 to be carryover into the next plan year, effective January 1, 2023.

Background

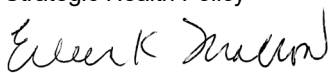
Health Care FSA and Limited Purpose FSA accounts are authorized under Sections 125 and 105 of the Internal Revenue Code (IRC) and Wis. Stat. § 40.85-40.875. The commuter fringe benefit accounts, also known as the Parking Account and Transit Account, are authorized under Section 132 of the IRC. The benefits are offered to State employees, allowing pre-tax deductions to be reimbursed for eligible expenses including medical, pharmaceutical, dental, vision, parking, and transportation costs. Optum (formerly known as ConnectYourCare) is the third-party administrator (TPA) for these pre-tax saving accounts.

Minimum Election

There is no current minimum annual election or carryover requirement for FSAs or commuter benefit accounts. ETF adopts an FSA provision that allows a member to carryover up to \$550, and commuter benefits has unlimited carryover balance. Re-enrollment during the annual open enrollment period is not a requirement for carryover balances to occur. Carryover amounts are made available to members by April 15 in the new plan year if they continue to have active employment status on December 31 in the prior year.

Any remaining balances that are carried over or forfeited are returned back to the program and held in trust by ETF as the plan administrator. ETF uses the forfeitures to pay for expense of administering the FSA plan in accordance with IRS regulations (see [Prop. Treas. Reg. § 1.125-5](#)).

Reviewed and approved by Eileen K Mallow, Director, Office of Strategic Health Policy
 Electronically Signed 05/03/2022



Board	Mtg Date	Item #
GIB	5.18.22	7A

During the two years that Optum has administered these benefit programs, ETF confirmed that not requiring a minimum election amount can cause discrepancies within the benefit programs. Such issues were also identified with prior program vendors. Not requiring a minimum enrollment amount is related to the issues below.

In-eligible Carryovers

Members may continue to have carryover balances made available to them even after they are no longer eligible for enrollment or terminated from State services due to standard enrollment file processing delays.

Manual Corrections

Optum must work with the employers to validate enrollments and send manual corrections to update member accounts appropriately.

Financial Risks

Members can overspend funds that they did not contribute or were eligible for when a cancellation date was never received by the employer. This causes financial liability to the employers and members in taking the loss.

De-listing Communications

Members with low balances and/or members who have not re-enrolled in the benefit plan across multiple years continue to receive communications from the TPA even when they have no means to continue coverage or exhaust their remaining balances. This causes confusion to members when communications are provided to them.

Framework and Development

ETF gathered historical data on FSAs and commuter benefits from multiple year-end reports. Table 1 shows the number of accounts with less than \$50 in carryover funds, and for which no annual election was made in the following plan year between 2019 and 2021. By the end of 2021, a total of 1,479 accounts had carryover amounts of less than \$50. The projected estimates of 2021 carryover balances under \$50 is \$22,147.22.

Table 1. FSAs/Commuter Accounts and Carryover Less Than \$50

	2019 Accounts	2019 Carryover into 2020	2020 Accounts	2020 Carryover into 2021	2021 Accounts *	2021 Carryover into 2022 *
FSAs	923	\$15,871.8	1,014	\$17,123.32	1,009	\$16,134.70
Commuter			464	\$6,108.56	470	\$6,012.52
Total	923	\$15,871.87	1,478	\$23,231.88	1,479	\$22,147.22

** Preliminary estimated projection numbers only (excluding terminated employees)*

Accounts that have carryover balances are subject to monthly administrative fees by Optum, even if the member does not enroll with a new annual election. For 2021

account balances to maintain coverage in 2022 plan year, ETF is estimated to be paying a total annual administration cost of \$32,198.88 (see Table 2). For an individual member who enrolls in an FSA and Parking Account for 12 months, the total annual cost of administrative fees for the year is \$46.92 (18.96 FSA admin fees per year + 27.96 Parking admin fees per year = \$46.92 total admin fees per year).

Table 2. 2022 Annual Estimated Costs for Carryover Balances Less Than \$50

	2021 Accounts	2022 Admin Fees Per Month	Total Annual Cost (x12 Months) **
FSA s	1,014	1.58	\$19,225.44
Commuter	464	2.33	\$12,973.44
Total	1,478		\$32,198.88

** Total Annual Cost = 2021 Accounts x 2022 Admin Fees Per Month x 12 Months

The Office of Strategic Health Policy and Division of Trust Finance staff evaluated this change proposal. ETF can potentially save up to 5% in the overall monthly administrative fees by implementing a \$50 minimum election and \$50 carryover requirement. The average 2021 monthly fees for the pre-tax saving accounts are estimated at \$55,000 (FSA admin fees per month + commuter fees per month / \$55k per month = 5%).

While researching this proposal, ETF explored neighboring states such as Illinois, Michigan, and Minnesota to determine if their programs had FSA minimum elections and the dollar value of those minimums. The U.S. Office of Personnel Management (OPM), an independent agency of the federal government, was also included in the research. The FSA minimum election for the neighboring states and OPM is shown in Table 3. Michigan does not have a minimum election amount, but any carryover balances into a third consecutive year would require a member to enroll or the balances will be forfeited. Since 2015, OPM has set their FSA minimum election at \$100.

Table 3. FSA Cancellation Rule for States and Federal Agency

States and Federal Agency	FSA Minimum Election
Illinois	\$240
Michigan	\$0
Minnesota	\$100
OPM	\$100

ETF requested Optum to provide information about state clients that they administrator and how those states' FSA minimum election and carryover rules are designed. Three of the four client states have an FSA minimum election above \$100, which requires members to re-enroll each year to be eligible for any carryover amounts.

Table 4. State Clients of Optum Financial FSA Minimum Election

State Clients	FSA Minimum Election
State Client 1	\$240
State Client 2	\$0
State Client 3	\$120
State Client 4	\$240

Stakeholder Feedback

ETF discussed the minimum election and carryover requirement with internal and external stakeholders, including at the ETF Update Meeting (previous known as Payroll Council). State employer feedback suggested that the proposed change negatively impact administrative efficiency due to the potential for member questions and confusion. This change may also create a less desirable benefit option for members' participation, as it requires an increase in the amount of member responsibility to appropriately manage their benefit accounts. Another possible challenge is members may not be aware of their estimated carryover balance near the end of the plan year, which may cause late enrollment appeals to satisfy the minimum fund requirements.

ETF employer and member services requested a prolonged rollout of these potential changes so members could be fully educated on the minimum election and carryover requirement. They also suggested a two-phase approach, with the minimum enrollment amount requirement to be effective for the 2023 plan year, and the minimum carryover amount requirement going into effective for 2024. ETF legal counsel did not identify any concerns from state or federal regulations that would prevent ETF from moving forward with this change.

Communication will be key to implementing these changes, especially ensuring a sufficient timeline to generate awareness across all State employers and members. For this reason, this change will only be effective for balances ending in 2023 and to give stakeholders enough time in absorbing the rule change.

Proposed Change

ETF is recommending the Board set a minimum annual election amount and carryover balance for the 2023 plan year. All 2022 eligible balances will be carried over into the 2023 plan year and will not require a minimum election for any carryover amount. Participating members will be required to have a minimum carryover amount to automatically be carried over into 2024 plan year. Any amounts less than \$50 by the end of 2023 plan year will require a minimum election of \$50 for the balance to be carried over into 2024.

This rule is set as a control to prevent the discrepancies that ETF has seen in the past years with ineligible carryovers, reduce manual correction with TPAs, reduce financial risks within the benefit programs, and prevent members from receiving communications that can be confusing to them. The reasons for this change are to:

- Ease administrative work for stakeholders on the back end when validating enrollment corrections;
- Reduce financial risks within the benefit programs and preventing ineligible members from continuous coverage after termination; and
- Provide savings in administrative fees for account members who have no means in exhausting their small balances and/or have continuous coverage.

Three options are available for the Board to consider.

Option 1

Set a minimum annual election amount of \$50 for flexible spending accounts (FSAs) and commuter benefits with any balances less than \$50 to be considered carryover into the next plan year, effective for January 1, 2023 (*recommended*).

Option 2

Set a minimum annual election amount of \$20 for flexible spending accounts (FSAs) and commuter benefits with any balances less than \$20 to be considered carryover into the next plan year, effective for January 1, 2023.

Option 3

No changes to minimum election and carryover requirement.

With a minimum annual election and rollover of \$100, employers suggested the threshold a considerable amount of money that members can still use on eligible expenses. Some employers suggested for ETF to consider a lower minimum requirement of \$20. In ETF's evaluation, \$50 is a low minimum requirement in comparison to other plan sponsors. The estimated administrative fees cost to maintain an FSA and Parking Account for a full year in 2022 is \$46.92. Therefore, ETF is recommending option 1 as it provides appropriate measure with members who have low balances to re-enroll with a minimum annual election and to maintain coverage.

Communication Plan

With the Board's approval of any of the proposed changes, ETF and Optum are ready to collaborate and communicate changes to stakeholders. Materials for the annual open enrollment period and website content will be updated to reflect any changes. The Board can expect communications to begin during summer 2022. Participating members will receive direct communications during open enrollment about the minimum election and carryover requirements (effective in 2023) and impacts to 2024 funds.

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