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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 Cancellation Rule

The Department of Employee Trust Funds (ETF) requests the Group Insurance Board (Board) approve modifying the cancellation coverage rule for the Health Care Flexible Spending Account (FSA) and Limited Purpose FSA to be effective on the last day of the month in which a participating member cancels or terminates employment beginning January 1, 2023.

Background

Employee Reimbursement Accounts (ERA), which include the Health Care FSA and Dependent Day Care Account, were established by the 1987 Wisconsin Act 399, as authorized under Sections 125, 105, and 129 of the Internal Revenue Code and Wis. Stat. § 40.85-40.875. In 2015, ETF instituted the state-sponsored High Deductible Health Plan (HDHP), Health Savings Account (HSA), and Limited Purpose FSA benefit offerings. Optum (formerly known as ConnectYourCare) currently served as the third-party administrator (TPA) of the pre-tax saving accounts.

On May 15, 2019, ETF presented information on the FSA cancellation rule to the Board but did not move forward with any recommended changes ([Ref. GIB | 5.15.19 | 11A](#)). The memo had a recommendation but was postponed since employers were not ready to move forward with this change. Optum was also in the early stage of implementation and did not have a recommendation at that time.

Current FSA Cancellation Rule

The current FSA account cancellation rule goes into effect on the last day of the month in which a participating member FSA contribution occurs. For example, if the member cancels or terminates from position on March 1, 2022, but had an FSA payroll deduction on April 1, 2022, then the participating member can continue to incur FSA expenses through April 30, 2022.

The current rule continues to create administrative challenges related to the file interface between the employers and Optum. This issue was also encountered by

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

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previous TPAs when extending the FSA coverage beyond a termination date. The rule also leads to data discrepancies for termination of coverage date which requires employers to send a manual date correction to Optum. Some payroll systems have limitations and are not able to configure a coverage end date that is beyond an additional 30 days from termination date. The complexity of this rule in the FSA plan design is difficult for employers and members to understand.

Enrollment in the FSA benefit comes with an agreement to fund the election amount at the beginning and to collect the contributions through payroll deduction. The TPA will post and apply any FSA contribution received to the member account. Due to participating members receiving their full election amount upfront, the timing of the FSA payroll deductions should have no bearing on the allowable date of service or coverage end date in the FSA cancellation rule.

Proposed Change

ETF is proposing to change the FSA cancellation coverage rule to the end of the month in which the employee terminates from position or cancels coverage. The evaluation of this change has been reviewed by ETF Office of Legal Services (OLS), Employer Service Section (ESS), employers, and Optum. There were no major concerns to adopting this change from the stakeholders. The reasons are as follows:

- Ease administrative works for stakeholders;
- Improve data quality between employers and Optum; and
- Simplify cancellation rules to be consistent with other benefit plans such as health, vision, and dental.

Most benefit offerings by ETF have coverage ending at the end of the month upon cancellation or termination. Adopting this rule for the FSA will ease administration challenges and communications with members.

Framework and Development

ETF researched across neighboring states how FSA cancellation rules work within their benefit program. Illinois, Michigan, and Minnesota were part of the research. U.S. Office of Personnel Management (OPM), an independent agency of the federal government was also included in the research. As shown in Table 1, Illinois, Minnesota, and OPM have their FSAs end on the date of termination.

Table 1. FSA Cancellation Rule for States and Federal Agency

States and Federal Agency	FSA Cancellation Coverage Rule
Illinois	Date of termination
Michigan	Last day of pay period
Minnesota	Date of termination
OPM	Date of termination

ETF requested Optum to provide information on state clients that they are an administrator for and how those states' FSA cancellation rules are design. Three of the agencies have their FSA end on the date of employee termination and one has it cancel at the end of the month when the employee terminates.

Table 2. State Clients of Optum FSA Coverage End Date

State Clients	FSA Cancellation Coverage Rule
State Client 1	Cancel at end of month upon termination
State Client 2	Date of termination
State Client 3	Date of termination
State Client 4	Date of termination

ETF's FSA cancellation rule has been unique in its plan design, which often is not reflected in other plan sponsor FSA programs. Plan sponsors across the nation are adjusting to an appropriate standard cancellation rule by having an FSA coverage end align with termination date or at the end of the month upon termination. ETF is not considering the date of termination as that can be seen as an additional take-away for the members in utilizing their FSA.

ETF discussed the impacts on this change with Optum. Optum would be able to configure their system for the FSAs coverage ending at the end of the month based on the termination date received. This approach does not require employers to perform any development or changes within the file specifications.

ETF reached out to employers and internal areas for feedback on this proposal. There were no concerns to this proposal as it would standardize the cancellation rule to be similar with other benefit plans. The employers' payroll benefit system can already accommodate this change and it would not create any significant challenges in administering this proposal.

Communication Strategy

The strategy to communicate this change to internal and external stakeholders is in place. ETF has developed a communication plan to ensure any changes are shared in various channel, such as through:

- ETF Update (Payroll Council);
- Employer Bulletin;
- Employer Kickoff Meetings;
- Update Terms and Conditions;
- It's your Choice Open Enrollment;
- Materials & Resources; and
- Optum Landing Page.

A timeline of the communication strategy can be reflected with dates below:

- May 18, 2022 – Group Insurance Board

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- June 2022 through September 2022 – Communication Outreach to Employers
- September 2022 through December 31, 2022 – Communication Outreach to Members
- January 1, 2023 – FSA Cancellation Rule Effective Date

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