

**From:** [Bender, Annette C - DHS](#)  
**To:** [ETF SMB Board Feedback](#)  
**Subject:** Year End Unsubstantiated Claims  
**Date:** Saturday, February 18, 2023 7:33:46 AM  
**Attachments:** [February 18.docx](#)

---

Please see attached letter/grievance for documentation.

Thank you

*Annette Bender*

*Financial Program Supervisor*

*Mendota Mental Health Institute/Central Wisconsin Center*

[Redacted]

February 18, 2023

RE: Optum FSA Unsubstantiated Claim Process

To Whom It May Concern:

My name is Annette Bender and I am writing to express my concern, frustration and overall dissatisfaction with the handling of the year end FSA process.

I had an Flexible Spending Account (FSA) Claim which required documentation prior to payment (I had used the payment card). The first Explanation of Benefits I uploaded to the Optum portal was not accepted. I then worked with the provider to receive the correct documents that Optum would accept.

Notice was sent regarding upcoming year end deadlines of December 31, 2022 for CY22 claims to be substantiated. I uploaded the documents on December 27, 2022 which is prior to year end.

Optum had not even reviewed them as of December 31, 2022. As a result, my “unsubstantiated” claim was placed on a list which is subsequently sent to Central Payroll and resulted in a deduction schedule for the next month to “pay back” the claim that I supposedly had not completed. I reached out to Central Payroll and Optum, explaining that I had submitted the documentation prior to the deadline and could prove it and requested my name be removed from this list as it was not applicable. I also inquired why I was being penalized for following the policy and meeting the deadline. All parties denied any accountability and simply stated there was nothing they could do. If it was found to be in error, the deductions would be refunded in April or May of 2023. This is not an acceptable practice.

I reached out to the ETF Ombudsperson for assistance as well. The issue was finally resolved, but not until one “installment” of this repayment had already been deducted; which I must now wait until April or May of 2023 to have refunded—when it should never have been deducted at all.

The concerns are multiple:

- The 12/31/xxxx is not a reasonable deadline. By imposing this deadline you are effectively denying participants access and reasonable time to substantiate any claims. Participants may be required to “pay back” any unsubstantiated claims which can/would cause undue hardship to some participants.
- This deadline also effectively denies participants a full calendar year to use their FSA benefits/deductions as they would not have the time to substantiate any late December claims.
- These repaid claims are deducted “post-tax” from participants bi-weekly paychecks when the original payments to FSA are pre-tax, effectively negating any tax advantages.
- Refunds are also assigned post tax which can interfere and affect a participant's overall tax rates by effectively increasing their taxable income.

- The fact that refunds are not issued until April or May because:  
*“Employers are not able to refund early and the Optum does not have the ACH funds yet until the end of March.”*

This is another anomaly which makes no sense. The “repayment” was deducted from the paycheck therefore someone (ETF or Optum) has the funds and should have the ability to refund immediately when the error is discovered. I don’t believe either entity has the right to hold funds that were wrongfully deducted for a period of 2 months or longer before issuing a refund.

The FSA plan is intended to be a benefit for the participants, but actions and rules such as these are a detriment and possible economic harm to some. These scenarios leave the perception that the only people who benefit from this policy are ETF and the FSA provider.



**STATE OF WISCONSIN**  
**Department of Employee Trust Funds**  
A. John Voelker  
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

March 10, 2023

Annette Bender  
[REDACTED]

Dear Annette Bender:

This email is to acknowledge that the Department of Employee Trust Funds (ETF) received your feedback on February 20, 2023, regarding your Flexible Spending Account experience with ETF's Third-Party Administrator, Optum Financial (Optum).

We are in the process of reviewing this matter further with Optum and anticipate issuing a response to you within 7-10 business days or less from the date of this notice. We appreciate your patience while we review this matter further.

Sincerely,

Xiong Vang, HSA & ERA Accounts Program Manager  
Office of Strategic Health Policy  
Department of Employee Trust Funds



**STATE OF WISCONSIN**  
**Department of Employee Trust Funds**  
A. John Voelker  
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

March 31, 2023

Annette Bender  
[REDACTED]

Dear Annette Bender:

Thank you for your email to the Department of Employee Trust Funds (ETF) received on February 20, 2022, regarding your experience on the Flexible Spending Account (FSA) with ETF's Third-Party Administrator, Optum Financial (Optum). We are sorry you did not have the experience you were hoping to receive. We appreciate your patience while we reviewed this matter further with Optum.

In your inquiry, you expressed your frustration and overall dissatisfaction with the 2022 FSA plan correction process. We requested Optum to review whether you provided sufficient documents for your 2022 FSA claims on or before January 23, 2023, prior to the employer payroll withhold process (plan correction). Optum provided the following key dates and activities that occurred on your FSA claim:

Date	Activity
October 18, 2022	<ul style="list-style-type: none"><li>FSA payment card used on claim [REDACTED] to pay out an amount of [REDACTED]</li></ul>
November 1, 2022	<ul style="list-style-type: none"><li>Optum sent out an email requesting additional documents</li></ul>
December 2, 2022	<ul style="list-style-type: none"><li>Optum sent a post-letter in the mail for documentation</li></ul>
December 27, 2022	<ul style="list-style-type: none"><li>Appropriate documentation provided</li></ul>

Optum confirmed that you did submit acceptable documentation timely before the plan correction process began and no further action was required from you. Unfortunately, your 2022 FSA claim was in a "pending status" on January 23, 2023, and not updated in Optum's system until February 6, 2023. On February 9, 2023, your employer was notified to stop any future payroll withholding for your 2022 FSA claim. Any funds withheld by your employer will be sent from your employer to Optum by April 7, 2023. Optum will then process the payroll withheld payments and issue any applicable refunds by the end of April 2023, if not sooner. Since your FSA account is set up with electronic fund transfer, your overpayment of [REDACTED] will be sent to you as an electronic fund transfer.

Annette Bender  
March 31, 2023  
Page 2

We apologize for the oversight of your pending 2022 FSA claim. Optum has taken additional steps to prevent this oversight from happening in the future. Going forward, all claims in a “pending status” will be thoroughly reviewed and updated appropriately before the employer payroll withhold process begins.

In addition to the above matter, you had some concerns related to substantiation requirements, taxes, and hardship. Under Internal Revenue Service (IRS) Regulations, all claims’ payments made from an FSA require third-party substantiation documentation, unless the transaction is auto-substantiated. Any FSA claims that are not properly substantiated will follow ETF’s [Unsubstantiated Claims Recovery Process](#) consistent with the [Correction Procedures For Improper Health Flexible Spending Arrangement Memorandum](#) issued by the IRS’s Office of Chief Counsel on February 12, 2014, which set forth acceptable correction procedures for any improper payments.

All payroll withholding amounts are taken post-tax and refunds are issued back in the same way without any tax advantage. The post-tax withholding negates any FSA claims that were paid out as pre-tax and have no proof that the FSA claim qualified as a pre-tax eligible expense.

ETF and Optum have considered members in a hardship situation and put thresholds and processes in place for these members. If a member is experiencing any financial hardship due to payroll withholding amount, the member can request a reduction of the amount from their employer. Also, for claims submitted in December 2022, the FSA policy allowed a member up to three additional weeks (January 1–January 23, 2023) to submit documentation prior to the payroll withhold process beginning. All 2022 claims had to be submitted and resolved by the deadline date on March 31, 2023.

ETF is dedicated to continuously improving the substantiation process to reduce obstacles for those who submit claims late in the year and to mitigate these issues going forward. ETF will continue to review our plan correction process and communications with Optum and participating employers to make improvements.

We appreciate you taking the time to send your feedback and questions. If you have any additional questions or concerns regarding the FSA program, please feel free to reach out to me at [Xiong2.Vang@etf.wi.gov](mailto:Xiong2.Vang@etf.wi.gov) or by phone at (608) 266-5875.

Sincerely,

Xiong Vang, HSA & ERA Accounts Program Manager  
Office of Strategic Health Policy  
Department of Employee Trust Funds

**From:** [REDACTED]  
[ETF SMB Board Feedback](#)  
**Subject:** RE: Year End Unsubstantiated Claims  
**Date:** Monday, April 10, 2023 1:19:34 PM  
**Attachments:** [REDACTED]

---

Thank you for the correspondence. However, I respectfully disagree with your comments highlighted in yellow below. The highlighted information was not included in any communication from Payroll. I've included the messages received to show that everything clearly states December 31, 2022.

Annette Bender

[REDACTED]

---

**From:** ETF SMB Board Feedback <ETFSMBBoardFeedback@etf.wi.gov>  
**Sent:** Monday, April 10, 2023 11:38 AM  
**To:** [REDACTED]  
**Subject:** RE: Year End Unsubstantiated Claims

Dear Annette Bender:

Thank you for your email to the Department of Employee Trust Funds (ETF) received on February 20, 2022, regarding your experience on the Flexible Spending Account (FSA) with ETF's Third-Party Administrator, Optum Financial (Optum). We are sorry you did not have the experience you were hoping to receive. We appreciate your patience while we reviewed this matter further with Optum.

In your inquiry, you expressed your frustration and overall dissatisfaction with the 2022 FSA plan correction process. We requested Optum to review whether you provided sufficient documents for your 2022 FSA claims on or before January 23, 2023, prior to the employer payroll withhold process (plan correction). Optum provided the following key dates and activities that occurred on your FSA claim:

Date	Activity
October 18, 2022	<ul style="list-style-type: none"><li>FSA payment card used on claim [REDACTED] to pay out an amount of [REDACTED]</li></ul>
November 1, 2022	<ul style="list-style-type: none"><li>Optum sent out an email requesting additional documents</li></ul>
December 2, 2022	<ul style="list-style-type: none"><li>Optum sent a post-letter in the mail for documentation</li></ul>
December 27, 2022	<ul style="list-style-type: none"><li>Appropriate documentation provided</li></ul>

Optum confirmed that you did submit acceptable documentation timely before the plan correction process began and no further action was required from you. Unfortunately, your 2022 FSA claim was in a “pending status” on January 23, 2023, and not updated in Optum’s system until February 6, 2023. On February 9, 2023, your employer was notified to stop any future payroll withholding for your 2022 FSA claim. Any funds withheld by your employer will be sent from your employer to Optum by April 7, 2023. Optum will then process the payroll withheld payments and issue any applicable refunds by the end of April 2023, if not sooner. Since your FSA account is set up with electronic fund transfer, your overpayment of [REDACTED] will be sent to you as an electronic fund transfer.

We apologize for the oversight of your pending 2022 FSA claim. Optum has taken additional steps to prevent this oversight from happening in the future. Going forward, all claims in a “pending status” will be thoroughly reviewed and updated appropriately before the employer payroll withhold process begins.

In addition to the above matter, you had some concerns related to substantiation requirements, taxes, and hardship. Under Internal Revenue Service (IRS) Regulations, all claims’ payments made from an FSA require third-party substantiation documentation, unless the transaction is auto-substantiated. Any FSA claims that are not properly substantiated will follow ETF’s [Unsubstantiated Claims Recovery Process](#) consistent with the [Correction Procedures For Improper Health Flexible Spending Arrangement Memorandum](#) issued by the IRS’s Office of Chief Counsel on February 12, 2014, which set forth acceptable correction procedures for any improper payments.

All payroll withholding amounts are taken post-tax and refunds are issued back in the same way without any tax advantage. The post-tax withholding negates any FSA claims that were paid out as pre-tax and have no proof that the FSA claim qualified as a pre-tax eligible expense.

ETF and Optum have considered members in a hardship situation and put thresholds and processes in place for these members. If a member is experiencing any financial hardship due to payroll withholding amount, the member can request a reduction of the amount from their employer. **Also, for claims submitted in December 2022, the FSA policy allowed a member up to three additional weeks (January 1–January 23, 2023) to submit documentation prior to the payroll withhold process beginning. All 2022 claims had to be submitted and resolved by the deadline date on March 31, 2023.**

ETF is dedicated to continuously improving the substantiation process to reduce obstacles for those who submit claims late in the year and to mitigate these issues going forward. ETF will continue to review our plan correction process and communications with Optum and participating employers to make improvements.

We appreciate you taking the time to send your feedback and questions. If you have any additional questions or concerns regarding the FSA program, please feel free to



reach out to me at [Xiong2.Vang@etf.wi.gov](mailto:Xiong2.Vang@etf.wi.gov) or by phone at (608) 266-5875.

Sincerely,

Xiong Vang, HSA & ERA Accounts Program Manager  
Office of Strategic Health Policy  
Department of Employee Trust Funds

---

**From:** [REDACTED]  
**Sent:** Saturday, February 18, 2023 7:34 AM  
**To:** ETF SMB Board Feedback <[ETFSMBBoardFeedback@etf.wi.gov](mailto:ETFSMBBoardFeedback@etf.wi.gov)>  
**Subject:** Year End Unsubstantiated Claims

Please see attached letter/grievance for documentation.  
Thank you

Annette Bender

[REDACTED]

**From:** [DHS Payroll](#)  
**To:** [REDACTED]  
**Subject:** TAKE ACTION: 2022 Flexible Spending Plan - Unsubstantiated Claims  
**Date:** Friday, December 16, 2022 4:00:42 PM

---

Dear Annette,

Our records show that you have a Flexible Spending claim submitted to Optum Financial (Connect Your Care) that requires substantiation.

See the information below:

Employee Name: Annette Bender  
Employee ID: [REDACTED]  
Department Number: [REDACTED]  
Ineligible Amount: [REDACTED]

Documents or substantiation for 2022 claims must be submitted by December 31, 2022. Any 2022 unsubstantiated claims after the plan year ending December 31 **will be deducted from your paychecks beginning with the 1/26/2023 check date.**

Participants can substantiate their claims online, on the mobile app, or via fax and mail.

**OPTUM Contact Information:**

Online portal at: [myoptumfinancial.com](https://myoptumfinancial.com)

Use the Mobile app: Optum Financial

Phone: (877) 292-4040

Fax: 1-443-681-4601

Mail: Claims Department P.O. Box 622317, Orlando FL 32862-2317

For additional information, please see: [Pre-tax Savings Accounts / Flexible Spending Accounts | WorkWeb @ DHS \(wisconsin.gov\)](#)

**Timing is important:** Any claims substantiated **after** December 31 (i.e., from January 1 through March 31) with Optum Financial (Connect Your Care) will still be deducted from your paycheck. Any applicable refunds will come directly from Optum Financial (Connect Your Care).

**Note:** If you have already repaid or substantiated the claim, it might be a timing issue between this email and completing the substantiation process in Optum Financial system for your claim. You can verify with customer service at Optum Financial or review in your mobile app that the claim has been substantiated.

Please reach out to Optum directly with any questions.

Sincerely,

[DHS Payroll and Benefits Team](#)

**From:** [DHS Payroll](#)  
**To:** [REDACTED]  
**Subject:** ACTION REQUIRED: Flexible Spending Account Claim(s) needs Substantiation  
**Date:** Wednesday, November 30, 2022 1:46:29 PM

---

Dear Annette,

Our records show that you have a Flexible Spending claim submitted to Optum Financial (Connect Your Care) that requires substantiation. See information below:

Employee Name: Annette Bender

Employee ID: [REDACTED]

Department: [REDACTED]

Ineligible Amount: [REDACTED]

Documents or substantiation for 2022 claims must be submitted by **December 31, 2022**. Any 2022 unsubstantiated claims after the plan year ends December 31 **will be deducted from your paychecks beginning with the 1/26/2023 check date**.

Participants can substantiate their claims online, on the mobile app, or via fax and mail.

Online portal at: [myoptumfinancial.com](https://myoptumfinancial.com)

Mobile app: Optum Financial

Fax: 1-443-681-4601

Mail: Claims Department P.O. Box 622317, Orlando FL 32862-2317

For additional information, please see: [Pre-tax Savings Accounts / Flexible Spending Accounts | WorkWeb @ DHS \(wisconsin.gov\)](#)

**Timing is important:** Any claims substantiated **after** December 31<sup>st</sup> (i.e., from January 1 through March 31) with Optum Financial (Connect Your Care) will still be deducted from your paycheck. Any applicable refunds will come directly from Optum Financial (Connect Your Care).

Sincerely,

[DHS Payroll and Benefits Team](#)



**STATE OF WISCONSIN**  
**Department of Employee Trust Funds**  
A. John Voelker  
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

April 18, 2023

Annette Bender  
[REDACTED]

Dear Annette Bender:

Thank you for your response and the materials shared. The general rule for all Flexible Spending Account (FSA) claims is for members to submit supporting documentation by the end of the plan year, December 31. The communications you received from your employer with the December 31 deadline is correct. ETF upholds December 31 as the deadline date, which is consistent with the rules of FSA programs and prevents confusion to members on multiple deadline dates.

The January 23 deadline is a behind the scenes deadline to provide additional time for Optum to process claims and reconcile accounts. Also, the January 23 deadline allows time for members with end of year claims to submit documentation, which includes initial, corrected, or additional information. The additional three weeks in January was recently put into place to prevent as many members as possible from moving to the next step in the substantiation process, payroll withholding.

We will continue to keep member feedback and concerns in mind when we make process changes and improvements to our FSA programs.

Thank you, again, for taking the time to share your feedback.

Sincerely,

Xiong Vang, HSA & ERA Accounts Program Manager  
Office of Strategic Health Policy  
Department of Employee Trust Funds  
Xiong2.Vang@etf.wi.gov  
(608) 266-5875