

Employer FAQ:

New Carryover Provision for Flexible Spending Accounts

What has changed?

The US Treasury Department amended the use-or-lose rule to allow a limited amount of unused funds to rollover at the end of the plan year. Although the IRS notice calls it “carryover”, we call it “rollover” to match our system feature.

How much can rollover?

Up to \$500 in unused funds can rollover into the following plan year. While the employer can elect to allow less than \$500 to be rolled over, the same rollover limit must apply to all plan participants.

Does the new rollover rule apply to limited-purpose or post-deductible FSAs?

Yes. The IRS notice applies to all health FSAs.

Are rollover amounts cumulative?

No. The rollover amount from one year to the next is capped at \$500. For example, if a participant has \$500 that rolls over from 2014 to 2015, and then they contribute \$500 in 2015, but do not file any claims for 2015, the rollover amounts cannot be combined to \$1,000 to be rolled over into 2016—only \$500 can be carried forward.

How is the rollover amount calculated?

The rollover amount is determined after all expenses have been reimbursed for that plan year (after the end of the plan’s run-out period). For example, if a plan has a run-out period that ends on March 31 of the following plan year, the amount rolled over for a plan year is equal to the amount from that plan year remaining in the participant’s health FSA after March 31 (up to the rollover amount elected by the employer, but no more than \$500). Any unused amount in excess of \$500 (or, if lower, the rollover amount elected by the employer) is forfeited.

Does the rollover amount reduce the \$2,550 maximum annual contribution?

No. For example: If the full \$500 were to rollover into the following plan year and the employee elected to contribute the full \$2,550 in that year, they would have a total of \$3,000 available for reimbursement of eligible healthcare expenses that year.

If I contributed to my employees’ FSA accounts, will my contributions rollover?

Yes. Employer contributions can be rolled over up to the maximum rollover amount of \$500.

How do I enable my employees to use the rollover for plan?

You will need to amend your health FSA plan documents prior to the end of the current plan year. Contact your benefits attorney or third-party administrator.

What is the deadline to amend my plan to include the rollover?

To utilize the new rollover option permitted under this notice, a § 125 cafeteria plan offering a health FSA must be amended to set forth the rollover provision. The amendment must be adopted on or before the last day of the plan year from which amounts may be rolled over and may be effective retroactively to the first day of that plan year, provided that the § 125 cafeteria plan operates in accordance with the guidance under this notice and informs participants of the rollover provision, and provided further that a plan may be amended to adopt the rollover provision for a plan year that begins in 2013 at any time on or before the last day of the plan year that begins in 2014.

How do I determine whether the rollover provision or the grace period is right for me?

Knowing your employees past usage of FSAs will aid in your decision. For example: If the majority of your employees forfeited less than \$500, the rollover provision might make sense for you. If you are a company that has a high turnover rate, the grace period might be a better option since it has a shorter extension of the plan funds.

Can a plan offer grace period for a dependent care FSA and a rollover for a health FSA?

Yes. The guidance provided by the IRS does not limit your plan offerings for other types of FSAs.

If I amend my current year plan documents to include the rollover option, does this give my employees an opportunity to enroll or change election amounts?

For plans already in effect, it is not permissible to allow employees to change election amounts unless the employee experiences a qualified life event. If the plan has not yet started, then you may re-open enrollment if you are newly offering the rollover provision.

Does the new rule affect my employees' eligibility to participate in health savings accounts (HSAs)?

Participants in a health FSA are not eligible to contribute to an HSA. Therefore, if a health FSA participant has a rollover amount and wants to participate in an HSA the following year, the rollover amount must be rolled into a limited-purpose FSA to preserve eligibility. Plan documents must be amended to communicate what the policy is for participants enrolling in an HSA.

Does the rollover option affect the run-out period?

No. Participants will still be able to file claims during the run-out period for expenses incurred during the plan year. This will be useful for participants with more than \$500 in their FSA account at the end of the year. Employers can still determine the length of their run-out period.

Does a participant have to elect a health FSA in the plan year into which funds are rolled over?

The guidance does not preclude rollover of funds for participants who do not enroll in an FSA the following plan year. If you choose to offer this option, then those employees would be limited to the rollover amount in the next plan year. Although a participant may not be contributing in the rollover year, they remain a participant until their rollover funds are exhausted or their employment is terminated.

How does the rollover apply to a short plan year?

Rollover of funds for a short plan year is allowed.

Can a plan dictate a shorter term in which rollover funds can be utilized?

No. According to the IRS ruling, "The carryover of up to \$500 may be used to pay or reimburse medical expenses under the health FSA incurred during the entire plan year to which it is carried over."

Can I set a minimum rollover amount?

You may reduce the maximum rollover, but the IRS notice does not address minimum rollover amounts.

What happens to the rollover with terminated participants?

If a participant terminates mid-plan year, they are not eligible to receive funds rollover. However, they have a run-out period to submit claims within the dates of service for which they were eligible for reimbursement.

In what order are funds utilized for new claims?

According to the guidance examples, current year funds should be used prior to any rollover funds being used.

Will participants be able to use their benefits debit cards to access rollover funds?

Yes. The debit card will access current year funds and then rollover funds.