



2022 Health Savings Account Index Figures and IRS Guidance on Tax Treatment of Dependent Care Benefits Available Under Extended Claims Periods or Carryover (and a COBRA Subsidy Reminder!)

On May 10, 2021, the Internal Revenue Service (IRS) released two publications: the new Health Savings Account (HSA) index figures for 2022¹ and additional guidance on the tax treatment of dependent care benefits.²

2022 Health Savings Account Index Figures

The IRS provides this early release to help employers and HSA Members budget for the upcoming year. See the table below for details:

	2021	2022
Minimum deductible amounts for the qualifying High-Deductible Health Plan (HDHP)		
Individual Coverage	\$1,400	\$1,400
Family Coverage	\$2,800	\$2,800
Maximum contribution levels		
Individual Coverage	\$3,600	\$3,650
Family Coverage	\$7,200	\$7,300
Catch-up contributions allowed for those 55 years of age and over	\$1,000	\$1,000
Maximums for HDHP out-of-pocket expenses (excluding premiums)		
Individual Coverage	\$7,000	\$7,050
Family Coverage	\$14,000	\$14,100

Also, for plan years beginning in 2022, Revenue Procedure 2021-25 provides that the maximum amount that may be made newly available for the plan year in an excepted Health Reimbursement Arrangement (HRA) is \$1,800. Plan sponsors should update payroll and plan administration systems for the 2022 cost-of-living adjustments and incorporate the new limits in relevant participant communications, such as open enrollment and communication materials, plan documents and summary plan descriptions.

¹ <https://www.irs.gov/pub/irs-drop/rp-21-25.pdf>

² <https://www.irs.gov/pub/irs-drop/n-21-26.pdf>



Tax Treatment of Extended Claims Period or Carried-over Dependent Care Benefits

Also, on May 10, the IRS provided welcome guidance with respect to the federal tax implications of Dependent Care Flexible Spending Account (DCFSA) benefits that continue to be available during tax years ending in 2021 or 2022 by virtue of extended claims periods or carryover.

As previously reported³, the American Rescue Plan Act of 2021 (ARPA) – among other things – introduced an optional provision allowing for the maximum permissible amount a taxpayer may exclude from gross income to \$10,500 (or \$5,250 for married taxpayers filing separately) for the 2021 taxable year only.

This optional increase, however, raised questions with respect to its interaction with previous relief under the Consolidated Appropriations Act, 2021, which introduced carryovers of unused benefits or extensions of claims periods.

By way of background, plan sponsors are permitted (but are not required to) amend their DCFSA to carryover unused DCFA funds remaining at the end of a plan year into the subsequent plan year (i.e., from 2020 to 2021, and from 2021 to 2022), or to extend the claims period for 2020 or 2021 for 12 months. With the permitted increase of the total amount available during the 2021 calendar year to \$10,500, it would be conceivable for an employee to have \$15,500 of pre-tax funds available for the reimbursement of eligible dependent care expenses (that is, up to \$5,000 of unused funds remaining at the end of 2020 carried over into 2021, then up to an additional \$10,500 for 2021).

The IRS confirmed in Notice 2021-26 that amounts available pursuant to a carryover or under an extended claims period that would have been excluded from an employee's income if they had been used during the original year (2020 or 2021) will remain nontaxable if they are used for eligible dependent care expenses during the subsequent taxable year.

Tax Treatment of DCAP Benefits Under Extended Clams Periods or Carryovers in Non-Calendar Plan Years

Fortunately, Notice 2021-26 also explains ARPA's temporary increase in the maximum DCFSA exclusion with respect to non-calendar pan years. Again, this temporary increase applies to an individual's taxable year; this is generally the calendar year and **not** the DCFSA's plan year. Therefore, the maximum excludable amount for DCFSA's will revert to \$5,000 in 2022.

In this case, how would a non-calendar year DCFSA (e.g., July 1, 2021 – June 30, 2022) be impacted?

Notice 2021-26 clarifies that DCFSA benefits from one taxable year that are used to reimburse expenses incurred during the next taxable year portion of a non-calendar plan year (that is, expenses incurred in the 2022 *taxable* year portion of the non-calendar plan year beginning in

3

https://www.healthequity.com/doclib/compliance/Compliance_Alert_American_Rescue_Plan_Act_COBRA_Subsidy_Final_3.12.2021.pdf

HealthEquity®

2021) are not carryover benefits or benefits available under an extended claims period. Therefore, the guidance does not apply to those benefits.

Example – Non-Calendar Plan Year (July 1 – June 30)

For the 2021 plan year, an employee elects \$10,000 in pre-tax contributions under her employer's DCFSA. She incurs \$5,000 in eligible dependent care expenses from July 1, 2021 to December 31, 2021; she incurs \$5,000 in eligible dependent care expenses from January 1, 2022 to June 30, 2022. Effective January 1, 2022 (the beginning of the taxable year), the DCFSA reverts to the \$5,000 maximum contribution limit. The employee, effective July 1, 2022, elects the full \$5,000 pre-tax contribution amount and incurs an additional \$5,000 in dependent care expenses from July 1, 2022 to December 31, 2022. For the 2022 taxable year, the employee has been reimbursed \$10,000 (= \$5,000 + \$5,000). Because the maximum amount excludable from income as of the beginning of the 2022 taxable year is \$5,000, only half of the amounts reimbursed to her in 2022 will be non-taxable. The remaining \$5,000 will be taxable when she files her Form 1040 for the 2022 taxable year.

It is essential that employers who sponsor DCFsAs – and the employees who participate in them – review the guidance of Notice 2021-26 to ensure understanding of the potentially complex tax implications of extended claim periods or carryovers. This is especially true for those DCFsAs with plan years spanning taxable years (i.e., 2021 into 2022).

A Closing Reminder

Act Now! Assistance Eligible Individuals Are Standing By!

As we reported in a prior Compliance Alert³, ARPA introduced a temporary 100 percent COBRA premium subsidy for assistance eligible individuals (AEIs). Along with these new *required* provisions come additional dedicated – and equally required – notice provisions to notify AEIs (and potential AEIs) of their rights and responsibilities with respect to the subsidy program. The May 31, 2021 deadline to notify those AEIs (who had enrolled in COBRA as of April 1, 2021; those who had not elected – or who had enrolled in COBRA and have since discontinued COBRA coverage – as of April 1, 2021) is quickly approaching. Ensure you are completing your review of your qualified beneficiary populations to identify AEIs and have the appropriate notices distributed before the deadline!