**Frequently Asked Questions as of 01/07/2015**

**Healthcare FSA Administration with Carryover Provision**

On October 31, 2013, the U.S. Treasury Department and the IRS issued Notice 2013-71, which gives employers who offer a Healthcare Flexible Spending Account (FSA) the option of allowing employees to carry over up to $500 of unused FSA funds to the next plan year. WageWorks has updated our technology platform and is prepared to support you in this transition and manage your participants' carryover option elections.

Here are some of the most common questions about how WageWorks will administer the Healthcare FSA carryover provision.

1. **Should I be concerned that adopting carryover will reduce my forfeitures?**
   No, you should not be concerned. We estimate that the typical 20% FSA participation rate will increase with the $500 carryover provision since this change makes FSAs less risky for employees. This increase should result in greater tax savings for you since employers save on every pre-tax dollar contributed to an FSA via matching social security and Medicare taxes, as well as workers compensation premiums in most states. On average employers gain more than a 7% savings on total dollars that employees put in their FSAs.

   The increase in tax savings should offset any overspent money by employees leaving the company before the plan year ends or forfeiting unspent funds at the end of the plan year. Here is a savings example:

**At Current Participation Rates**

| | | |
|---|---|---|
| Number of eligible employees | | 3000 |
| Average FSA participation rate | | 25% |
| Average FSA election amount | $ | 1,300 |
| Total employee elections | $ | 975,000 |
| Average Employer savings rate | | 7% |
| Employer Savings | $ | 68,250 |
| Less Annual Admin Fees | $ | 33,750 |
| NET Employer Savings | $ | 34,500 |

**New Participation Rate Due to Carryover Provision**

| | | |
|---|---|---|
| Number of eligible employee | | 3000 |
| New participation rate | | 40% |
| Average FSA election amount | $ | 1,300 |
| New total elections | $ | 1,560,000 |
| Average Employer savings rate | | 7% |
| New Employer Savings | $ | 109,200 |
| Less Annual Admin Fees | $ | 54,000 |
| New NET ER Savings | $ | 55,200 |

| | | | | |
|---|---|---|---|---|
| Increase in NET ER Savings | $ | 20,700.00 | or | 60% |

*Administration fees estimated at $3.75 per participant per month or $45 annually

2. **Is there any concern that an FSA will potentially become perpetual since the unused amount can be carried over indefinitely?**
   No, we do not believe this is a concern. All working Americans and their families have some amount of out-of-pocket healthcare expenses every year. The average carryover amount is fairly minimal and will most likely be factored into the participants spending plan for the following year with or without additional salary deferrals. Further, as participants become more comfortable with budgeting out-of- pocket healthcare expenses, it is likely that contributed amounts will be fully used during the then current plan year. Finally, the carryover amount cannot ever exceed $500.

3. **How does an employer adopt the carryover option?**
   An employer must amend its plan document in writing, on or before the last day of the plan year from which amounts are to be carried over, and notify its participants of the change. There is a transitional rule allowing for plans amended for the 2013 plan year to be amended any time before 12/31/2014.

**4. Will adoption of the carryover option impact COBRA?**
Perhaps. COBRA will continue to function as it does today for current year funds in a participant's account as of the day prior to their COBRA qualifying date. The COBRA premiums will be based on the total election (salary reduction) plus employer contributions (if any) minus year-to-date disbursements. IRS officials have informally commented on the treatment of the carryover for COBRA purposes, stating that the carryover amount may be disregarded when determining COBRA continuation premiums. Also, COBRA should continue to be offered only if year-to-date contributions equal or exceed year-to-date disbursements.

**5. How does this rule change affect employees who were enrolled in an FSA for 2013 and just enrolled in an HSA for 2014?**
If the Healthcare FSA has a grace period and employees have dollars available, those participants are considered to have impermissible coverage until the first day of the month following the end of the grace period unless they have exhausted their available balances prior to the end of the plan year.

If the employer eliminates the grace period and adopts the carryover provision, participants in the Healthcare FSA should be advised to either use up their funds during the plan year or elect a Limited Purpose FSA for the following plan year so that up to $500 can be carried over into an HSA compatible FSA. Failure to use the funds or elect a Limited Purpose FSA means the participant will have impermissible coverage for the entire coverage period (the full plan year) impacting contributions to their HSA.

These same impermissible coverage considerations existed prior to the "Use It or Lose It" rule change and are important to consider when determining whether or not to include the carryover option or grace period in a healthcare FSA plan.

**6. How would carryover impact a participant who changes from a full purpose healthcare FSA to a limited purpose FSA and vice versa?**
It wouldn't. Carryover, if adopted by an employer, allows amounts in a healthcare FSA – limited purpose or otherwise – to carryover into the next plan year. The carryover option will follow the participant's choice so if a participant elects a limited purpose FSA for the current plan year, and has a carryover, the carryover will follow him/her into the limited purpose FSA for the following plan year. Similarly, if the participant elects a full purpose healthcare FSA in the current plan year and has a carryover, the carryover will follow him/her into a full purpose healthcare FSA for the following plan year.

However, a participant has elected to participate in an HDHP qualified HSA for the following plan year, and currently has a full purpose healthcare FSA, such participant should be advised to either spend all amounts in the full purpose healthcare FSA before the end of the plan year or enroll in a limited purpose FSA for the following plan year so that he/she can start contributing to their new HSA on the first day of the following plan year.

**7. What is the difference between a 'standard' FSA and a limited purpose FSA?**
A limited purpose FSA can only be used for vision and dental expenses . It is intended to work in conjunction with an HDHP. A standard FSA covers all eligible medical expenses.

**8. Can an employer choose to have carryover apply to a limited purpose FSA and not a full purpose FSA?**
Yes, but their plan must make clear to which benefit (the full purpose healthcare FSA or the limited purpose FSA) the carryover applies.

9. **Can an employer opt to allow the carryover with their LPFSA only, and not with a 'standard' FSA?**
Yes.

10. **When will the remaining prior plan year funds carryover into the new plan year?**
They will be available on the first day of the new plan year.

11. **If an employer has adopted carryover, does a participant have to have a new plan year FSA in order for the balance from the prior plan year to carryover?**
No. Any funds remaining in an individual's 2013 FSA will be automatically rolled in the 2014 plan year even if such employee didn't elect to participate in the 2014 FSA. This is why the immediate availability of this change is so important to a current participant. It would likely eliminate the risk of losing unused funds. Even if there is no FSA election for the following plan year, the participant now has the chance to spend up to $500 of his/her hard earned money on out-of-pocket healthcare expenses in the following year rather than lose those dollars or feel pressure to spend them on unnecessary items.

12. **If an employer wants to adopt carryover for 2013 do they have to create a special enrollment period now so employees can elect to participate or contribute more dollars?**
While employers don't have to do this, if carryover is elected, it may make sense to all employees to revisit their future year salary reduction amounts, prior to the beginning of the future year, given the new certainty that they won't lose up to $500. It also allows someone who was nervous about trying to budget out-of-pocket healthcare expenses to start small and not risk any loss of their hard-earned dollars.

13. **If an employers' 2014 open enrollment has already concluded, do they need to offer a special enrollment for employees to add the carryover option for 2014?**
Employers are not required to do so. However, if an employer wishes to amend their current plan to adopt the carryover, they may offer employees a period of time, or special enrollment, to change their elections or opt into an FSA. The ability to make these changes closes at the end of year. We highly recommend employers offer this one-time option.

14. **Can employers continue to offer the 2.5 month extension for dependent care?**
Yes. The carryover option only applies to healthcare FSAs. While the employer can chose to offer either the grace period or carryover provision for the healthcare FSA (but not both) – there is no reason why an employer can't offer grace period for dependent care and carryover for healthcare FSA.

15. **How does carryover impact run out?**
It doesn't. Use of the carryover option does not affect the ability of a healthcare FSA to provide for the payment of expenses incurred in one plan year during a permitted run out period at the beginning of the following plan year.

16. **Is the carryover option for healthcare only or dependent care only or both?**
The carryover option is for healthcare FSAs only and is not available for dependent care FSAs.

17. **Does the carryover amount count against the $2,500 maximum contribution limit applicable to each plan year?**
No. Participants can still choose to contribute as much as $2,500 even if they carry over $500 from the previous plan year.

**18. Do carryover funds affect plan contribution maximums?**

Carryover funds are in addition to the $2500 cap on salary reduction elections.

**19. When can I adopt the carryover provision?**

Immediately. While employers must notify WageWorks of their decision to elect the carryover provision before the last date of the 2013 plan year (plan start date in 2013), they can actually complete the formal plan amendment process anytime before the last day of the 2014 plan year. The exception to this is if the employer also has a grace period. In those cases, the plan must be amended before the last day of the plan year. Employers can adopt the carryover provision in subsequent years (plan start date in 2014 or later) before the last date of the affected plan year.

**20. Can I offer the carryover and a grace period?**

No, employers cannot offer the grace period during the same plan year that offers the carryover provision. Employers **can** offer a grace period for a Dependent Care FSA while offering the carryover for a Healthcare FSA during the same plan year. Employers will need to amend their plan documents to:

(1) Elect the carryover and specify related options; and

(2) Remove the grace period, if previously adopted.

**21. What is the difference between a grace period and a carryover? Which one is better?**

Generally, WageWorks believes the carryover is a better provision because it both eliminates the rush to spend unnecessarily at the end of the plan year or grace period; and also eliminates the number one barrier to entry by those eligible employees who do not participate.

**22. Can an employer switch between offering carryover and grace period from year to year?**

Yes, an employer can make this change any year.

**23. If an employer currently has a grace period for the 2013 plan year, can they amend their plan to offer the carryover before 2014?**

The current plan can be amended before the end of the plan year to eliminate the grace period and offer the carryover provision. This change can be made at any time during the plan year.

**24. If an employer already has a grace period built into their plan, would the employees enrolled in that plan be ineligible for the carryover?**

Yes, the grace period would have to be terminated in order for the carryover provision to be put in place. No plan is allowed to offer both a carryover and a grace period in the same plan year.

**25. If an employer already has a grace period in their benefit plan, what action needs to be taken to change to the carryover?**

The employer would need to amend their plan to terminate the grace period and elect the carryover provision. They would need to communicate this change to all employees. You can find a sample amendment and sample employee communications at www.wageworks.com/useitorloseit.

**26. Does an employer have to offer either the grace period or the carryover?**
No, you do not have to elect either option. Employers can choose to offer a carryover, a grace period or neither.

**27. Why would an employer choose a carryover instead of a grace period?**
The grace period allows unlimited unused funds to be available for use in the first two and a half months following the end of the plan year. While amounts are unlimited, the two month time frame within which expenses must be incurred still encourages a "rush to spend." Unused amounts at the end of the grace period are forfeited in total. The carryover provision allows participants to carryover unused amounts up to $500 for use anytime during the next plan year. The carryover is only adverse to an employee with a balance greater than $500 and eliminates the rush to spend at the end of the year. It also eliminates the most frequently cited barrier to entry by eligible employees who do not currently participate.

**28. What exactly is the grace period?**
The grace period is an additional 2.5 months following the close of the plan year to incur expenses against the previous plan year's election. This gives employees some “wiggle room” to use their remaining funds.

**29. Is there a minimum or a maximum amount allowed for carryover?**
Employers can choose to allow a carryover of any amount **up to** $500 per participant per plan year. WageWorks encourages you to allow the full carryover amount. At this time, WageWorks does not support setting a minimum carryover amount per participant (e.g., participants without an available balance of at least $x cannot have the carryover).

**30. When are carryover funds available for the employee?**
The carryover amount is available to the participant on the first day of the new plan year because of the uniform coverage requirement. This means that the carryover amount is simultaneously available to pay 2013 expenses and 2014 expenses during the 2013 plan run-out period. This also means that any participant with a carryover balance will also need to have an enrollment record in the 2014 plan on the first day of the plan year.

**31. What happens if an employee has a carryover balance but does not re-elect a Healthcare FSA?**
Employers can choose to allow participants who do not enroll in the new plan year to:
(1) Forfeit their previous plan year balance rather than carry over; and/or
(2) Default their carryover into an FSA for the new plan year.

**32. What if an employee does not re-enroll into the 2014 plan and also does not forfeit their carryover balance?**
If the participant does not enroll in the 2014 plan and does not forfeit the carryover, then an enrollment record for the 2014 plan will be created for that employee in the amount of a $0 election. If the participant previously had limited coverage, they will be re-enrolled in a limited coverage account. Otherwise, coverage in 2014 will be a standard FSA. By opening a new 2014 record, the participant will be able to access their carryover balance on day one of the new plan year and before the end of the run-out period.

33. **Do carryover funds affect an employee's election amount?**
The carryover funds are in addition to the participant's 2014 election and do not increase their election amount or decrease their payroll deductions for the 2014 plan.

34. **Do carryover funds affect an employee's coverage?**
No. Participants who are eligible for the carryover (who have a carryover balance and did not forfeit the carryover) will have the available carryover balance transferred into the 2014 plan as an adjustment - with the same coverage (limited or standard) as the 2014 plan.

35. **Which account will be used first—the 2014 plan or the carryover amount from the 2013 plan during the run-out period?**
The 2014 (current) plan year will pay first and the 2013 (carryover) plan will pay second. Employees get the best use of their funds by having the current plan year pay first, and the previous plan year pay second.

36. **Can a participant enroll in both a standard Healthcare FSA and an HSA? Does having carryover from a standard healthcare FSA disqualify participants from contributing to an HSA?**
Yes, participants may enroll in a healthcare FSA and make contributions to an HSA as long as the healthcare FSA is a limited-purpose healthcare FSA. A limited-purpose healthcare FSA pays only "accepted" benefits such as vision and dental expenses. This type of healthcare FSA does not preclude a participant from setting up and contributing to an HSA.

37. **Can employers give employees the option of both the healthcare FSA carryover ($500) and a grace period?**
No. the plan cannot have a carryover and a grace period within the same plan year. The plan may only have one or the other. However, 'run-out' periods remain unaffected. A grace period allows additional time to incur expenses for the previous year's election. A run out period is an extended period of time during which you can submit expenses incurred during the plan year for reimbursement.

38. **If we do not offer employees a limited-purpose healthcare FSA, do employees who will be enrolling in an HSA during open enrollment still need to spend their FSA funds by December 31?**
Yes. If your company does not offer a limited-purpose healthcare FSA, participants must choose to either:
    1) Spend down their remaining healthcare FSA funds before December 31; or
    2) Forfeit their carryover balance.

It may be a good time to revisit your plan design if you do not offer a limited purpose FSA. Remember that there are two conditions for employees to meet in order to contribute to an HSA. First, they must be enrolled in a Qualified High Deductible Health Plan. Second, they also cannot have any other impermissible coverage, which includes coverage under a spouse's health plan or FSA. Frequently, up to 50% of employees may be prevented from contributing to an, so allowing them the choice between an FSA or an HSA and Limited Purpose FSA is a design that will better meet all employees' needs.

39. **What happens if a participant has a carryover balance but does not enroll in, or select, any benefit?**
If a participant has a carryover balance, the balance will roll into the type of account they have on record at the end of the plan year. If a participant does not elect a plan benefit, they will be automatically enrolled, by default, into the same plan they were enrolled in at the beginning of the previous plan year.

For example, if Jennifer began 2013 with a Limited Purpose FSA and she has a carryover balance but forgets to enroll in a new plan, she would automatically be re-enrolled in a Limited Purpose FSA. Regardless of how you ended the plan year, you will be re-enrolled in the plan you **began** the year with.

40. **Does this have any impact on participants enrolled in an HSA only (or their spouses)?**
    No. The new carryover provision has no impact on participants who are only actively enrolled in an HSA; or any spouse enrolled in an HSA. Participants will only be affected if they have both an HSA **and** a standard healthcare FSA. Participants who have an HSA and Limited Purpose FSA are also unaffected.

41. **How long can funds be carried over? Are multiple year carryovers permissible?**
    Funds may be carried over indefinitely. There is no time limit. However, the employer may amend the plan to limit the years that carried over funds could be accessed. For example, an employee has unused funds from Plan Year 1, makes no election in Plan Year 2 and doesn't submit any claims for the Plan Year 1 amounts either. The employer could design their plan such that the PY 1 unused amounts expire at the end of the subsequent plan year.

42. **Does the $500 carryover affect the maximum HSA contribution amount? For example, maximum HSA contributions for a participant with individual coverage will be $3,300 for 2014. Does the carryover lower that total?**
    Carryover funds have no effect on maximum HSA contribution amounts.

43. **As an employer, do I have to offer a limited-purpose FSA, or is an HSA sufficient?**
    You have the choice to offer your employees either:
    a. A limited-purpose FSA, standard healthcare FSA and an HSA;
    b. Just an HSA; or
    c. Just a limited-purpose FSA.
    d. Just a standard healthcare FSA

44. **What if we offer an HSA from a company other than WageWorks? Can we still offer the limited-purpose FSA through WageWorks?**
    Yes. You may have single or multiple accounts with WageWorks. We work with several HSAs across all other platforms.

45. **If a participant has a limited-purpose FSA through their employer and the spouse has a limited-purpose FSA through their employer, can we both carry over $500 for a total of $1,000?**
    Yes. They are both eligible to carry over the full amount individually for a total carryover amount of $1,000, provided both employers offer the carryover provision.

46. **Is there a deadline for employee to opt out if they needed to remain HSA eligible (or for a spouse to remain HSA eligible)?**
    Participants need to notify their employer of their upcoming election by the end of the current plan year. Employers must have sufficient time to notify WageWorks of their employee's enrollment elections before the new plan year begins.

47. **If an employee has a carryover but quits before they have used their funds, is that money then forfeited? Or will the employee still have a grace period to submit receipts for treatment date of service prior to termination?**
Employers cannot have both the grace period and carryover. If year-to-date contributions exceed claims and there is a remaining balance, the employee has a COBRA election available for the remainder of the plan year. If they do not elect COBRA then expenses can only be submitted up to the termination date.

48. **If an employee with carryover is terminated midyear, can they take the funds with them?**
Carryover funds are nontransferable. Funds would be forfeited.

49. **Under what circumstances do carryover funds go to forfeiture?**
There are several situations where carryover funds would be forfeited:
    a. If an employee quits or is terminated and does not elect COBRA any unused funds will be b.
    b. forfeited. Unused amounts are subject to COBRA rights and coverage.
    c. If an employee has more than $500 in carryover funds – any amount over $500 will be forfeited.

50. **What can employers use forfeitures for?**
Forfeiture rules are complex. Please contact your relationship manager to discuss your options. Forfeitures are generally used to pay for expenses related to plan administration.

51. **If an employer has a non-calendar year plan year do they still have to adopt the plan amendment by December 21, 2013 if they want to elect the carryover?**
No. The change must be adopted on or before the last day of the plan year from which amounts are to be carried over. The amendment may be effective retroactively to the first day of that plan year.

51. **When can a fiscal year plan make the change?**
At any time on or before the last day of the plan year from which amounts are to be carried over.

52. **Does an employer have to elect the full $2500 FSA plan limit to allow for the $500 rollover or does the $500 rollover apply to any plan max?**
The carryover provision could apply to any plan maximum.

53. **To be eligible to carryover funds, does an employee have to actively re-enroll for an FSA in the new year?**
No. An employee who does not actively elect an FSA for the new plan year but who still has funds available for carryover will be automatically re-enrolled in the plan they began the previous plan year. Their election amount will be set to $0.

54. **Does an employer have to re-elect the carryover provision each year or does it remain in place until they actively elect to change it?**
Once an employer elects the carryover provision it would stay in place until the employer actively amends the plan again.

55. **Is there a time frame every year for the employees' carryover funds to be used?**
No. The carryover funds can be used at any time for expenses incurred in the new plan year (in addition to the elected payroll deductions). If any funds remain at the end of the current plan year, up to $500 is carried over into the subsequent year, indefinitely.

56. **How do employers track carry over funds vs. current year dollars being utilized?**
Carryover funds will remain in the previous plan year account to pay for claims through the end of that plan's run-out period. Fifteen days after the claims deadline, the carryover funds will be transferred to the new plan year account. Before the carryover transfer occurs, if the participant exhausts their new plan year account balance, new plan year expenses will be paid from the carryover funds out of the previous plan year account automatically (both via claims and card transactions at the point of sale).

Employers will see the carryover funds represented as part of the available balance in the previous plan year account before the carryover transfer and as part of the available balance in the new plan year account after the carryover transfer. Visibility to the carryover amount. The employer website will still allow visibility into carryover spent, carryover balance and carryover transferred for each participant.

57. **Employers must ask employees to make an election to carryover funds either to a limited purpose or a 'standard' FSA. Couldn't employers determine what is best for the employee instead of requiring an explicit election?**
No. Employers must offer their employees the option to re-enroll in an FSA or forfeit their funds. Employers do not have to offer both FSA options. They can choose to offer one or the other, but they cannot make the choice for their employees.

58. **How will WageWorks provide confirmation to employees that they have a carryover balance?**
WageWorks can display a light box on the participant website that explains the carryover feature, timing, and any options that may be available to the participant. This light box pop-up will show each time the participant logs in before the plan end date. Once enrolled in a new plan year that supports their carryover funds, the participant will receive all the standard communications regarding the new plan year account that they received during the previous plan year as an active contributing participant.

**Still have questions? Please contact your WageWorks Account Manager for more information.**