

Fidelity HealthSM

What's new with Fidelity Flexible Spending and Reimbursement Accounts Solutions (June 2023)



Employers who sponsor Health Care Flexible Spending Accounts (FSAs) and Dependent Care Flexible Spending Accounts (FSAs) should be aware that the Internal Revenue Service recently issued an Office of the Chief Counsel Memorandum reiterating its long-held position regarding the substantiation requirements for reimbursement of medical and dependent care expenses from these accounts. The memo reconfirms existing guidance regarding the requirements for substantiation and the impact of certain substantiation methods on a cafeteria plan. The IRS Chief Counsel reiterates that 213(d) medical expenses to an employee from a health care FSA are included in gross income if any expense reimbursed by the FSA is not fully substantiated with certain information from an independent third party. The Memo also reconfirms that failure to properly operate in accordance with substantiation requirements means the plan is not a cafeteria plan in accordance with Section 125. As a result, the amount of any benefits the employee elects under the cafeteria plan must be included in gross income and is wages for FICA and FUTA purposes subject to withholding.

The memo addresses six factual situations to determine if they meet the requirements. The first example is the only one that is deemed to have met the substantiation requirements. In this example, the cafeteria plan reimburses medical expenses only if they are substantiated by an independent third party with information including description of service or product, date of the service or sale, and amount of the expense.

The next four situations involve different practices that, according to the memo, do not meet the applicable substantiation requirements. In the examples, the plan allows self-certifications rather than requiring third party substantiation; not requiring substantiation for debit card charges that are not auto substantiated; or using sampling, de minimis, or favored provider approaches for debit card charges.

In the final situation, the plan reimburses dependent care expenses based on the self-certification of the participant and without requiring third party substantiation. Reimbursements were also not limited to expenses that have already been incurred. This did not meet the applicable substantiation requirements, and it did not meet the requirement that reimbursement may only be made for expenses that have already been incurred.

The memo is the latest reminder of the substantiation requirements that have been in place for many years for Health Care FSAs and Dependent Care FSAs. We have included a link to the memo for your review below. Please do not hesitate to contact your Flexible Spending and Reimbursement Accounts Manager with any questions you may have.

To view the memo, click [here](#).



Questions?

Plan sponsors can contact Fidelity Flexible Spending and Reimbursement Accounts Solutions for assistance at FidelityFSAandRA@fmr.com or contact your assigned Reimbursement Account Manager directly.

Participants can contact a Participant Services Associate for assistance at 833-299-5089.



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