



e-Alert

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Congress Passes Surprise Medical Bill Ban and Relief for Flexible Spending Accounts

Background

Effective December 27, President Donald Trump signed the [Consolidated Appropriations Act 2021, H.R. 133](#) into law, a \$900 billion stimulus bill that includes emergency economic relief, government funding, and tax cuts.

Summary

FSA Relief

The Consolidated Appropriations Act will lighten certain rules applicable to health and dependent flexible spending accounts, allowing employers an opportunity to ease employee concerns over surrendering their flexible spending account (FSA) funds.

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Highlights of FSA relief provisions:

- FSAs can allow all unused amounts from a plan year ending in 2020 to be carried over into 2021 and, consequently, a plan year ending in 2021 to be carried over into 2022.
- FSAs with a plan year ending in 2020 or 2021 may extend a grace period to 12 months following the end of the plan year. This is an increase from the previous 2 ½-months grace period.
- The Act also allows employees to elect to **prospectively modify** the amount of their FSA contributions for plan years ending in 2021, even if they have not experienced a change in status. However, the applicable dollar limitations will continue to apply.
- Health FSAs may allow post-termination benefits. An employee whose participation ends during the 2020 or 2021 calendar year may continue to receive reimbursements from unused contributions through the end of the plan year in which their participation ended (including the grace period).
- For those who aged out of eligibility during the pandemic, the provisions temporarily extend the maximum age of eligible dependents from “under 13” to “under 14” for Dependent Care FSAs.
 - **This change is only allowed when**
 - The employee was enrolled in the Dependent Care FSA in a plan year with an enrollment period on or before January 1, 2020.
 - The employee had a dependent who turned 13 during the plan year.
 - The employee had an unused balance for the plan year.
 - The reimbursement in the subsequent plan year for the age 14 dependent is limited to the unused contributions from the prior year.
- Plans adopting any of these voluntary changes must be amended by the end of the first calendar year beginning after the end of the plan year in which a change took effect and must be operated in accordance with the amendment's terms beginning on its effective date.
- Modifications must be operated in accordance with the amendment's terms beginning on its effective date. These modifications do not impact cash-outs of unused contributions and retroactive election changes are not permitted. Reminder, allowing carryover, grace periods, or an extended coverage period under an FSA may impact health savings account (HSA) eligibility.

No Surprises Act

The bill also includes the No Surprises Act, a ban on surprise medical bills, which will take effect in 2022.

What are Surprise Medical Bills?

Surprise medical bills occur when patients unexpectedly receive care from out-of-network health care providers. For example, a patient may seek treatment at an in-network hospital for



surgery or emergency care, but an out-of-network doctor may be involved in the patient's care.

Patients are often unable to determine the network status of these providers, such as emergency room doctors or anesthesiologists, in order to avoid the additional charges. In many cases, the patient is not involved in the choice of provider at all.

No Surprises Act

The legislation applies to unanticipated bills from doctors, hospitals, and air ambulances. It prohibits these providers from billing patients who have health coverage for unpaid balances. Instead, providers will have to work with the group health plan or health insurance issuer to determine the appropriate amount to be paid by the plan or issuer, under the methodology provided in the Act.

The Department of Health and Human Services will work with the Departments of Labor and the Treasury to issue regulations regarding the payment methodology and other requirements of the Act.

Employer Next Steps

- If you have questions about this e-Alert or need to have your plans amended and HR Knowledge is your benefit provider, please [email us](#).

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