Employee Benefits Report

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Dependent Care FSAs Can Save Money, Ease Work/Life Burdens

Dependent care FSAs cost employers almost nothing, yet they save money for both the employer and employee. Year-end is the perfect time to set up this low-cost, family-friendly benefit!

Dependent Care Accounts: The Basics

A dependent care flexible spending arrangement (FSA) allows employees to set aside pre-tax money to an account that will reimburse them for eligible expenses for dependent care that allows them to work. Employees who participate in these FSAs save on taxes because their contributions are deducted from their pay before taxes have been withheld, lowering their taxable income. And lower taxable income for an employee means lower payroll taxes for the employer.

Dependent care FSAs are not just for parents of young children. They can pay for the care of any dependent, not just a child. Employees can use their FSA to pay for care for a dependent spouse, parent or other relative who lives in the same principal residence and is physically or mentally incapable of self-care, as long as that care allows the employee to work.

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This Just In…

The Employee Benefits Security Administration, a branch of the Department of Labor, plans to "substantially increase" the number of ERISA audits it conducts. ERISA, the Employee Retirement Income Security Act, sets standards for the administration of retirement and health benefit plans in private industry.

Many ERISA violations involve unintentional oversights, particularly of complex regulations involving summary plan descriptions (SPDs) for health plans, and violations of HIPAA privacy regulations. Civil violations of ERISA may include:

- **Failing to operate the plan prudently and for the exclusive benefit of participants.**

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As with almost everything, dependent care FSAs come with strings attached — in this case, stringent tax rules. You will want to ensure employees who contribute to dependent care FSAs understand these rules, because they can end up losing money if they figure their expenses incorrectly.

- Individuals can contribute up to $5,000 in a dependent care FSA. If both the employee and spouse have dependent care reimbursement accounts, they can contribute up to a total of $5,000. If employee and spouse file separate federal income tax returns, the individual dependent care reimbursement account limit is $2,500. Single filers with an eligible dependent, however, can contribute up to the full $5,000.
- The IRS caps total contributions at the lowest of the employee's or spouse's earned income, whichever is lower. If your employee earns $80,000 per year but his/her spouse earns $4,000, that couple can make a maximum contribution of $4,000.
- A spouse who is a full-time student, or incapacitated, has imputed income of $200 per month for one qualifying dependent, or $400 per month for two or more qualifying dependents.
- Employees must report the name, address and Social Security number or taxpayer identification number of each dependent care provider when they submit a dependent care reimbursement account claim.

Eligible Expenses

A dependent care FSA can reimburse employees for any qualified dependent care expenses they incur during the plan year, including:

- Day care facility fees
- Before or after school care, or extended day programs
- Local day camp fees, if custodial in nature, not educational
- Baby-sitting fees for at-home care while you and your spouse are working (care cannot be provided by you, your spouse or other dependent).

- **Using plan assets to benefit certain parties related to the plan, including the plan administrator, the plan sponsor, and parties related to these individuals.**
- **Failing to properly value plan assets at their current fair market value, or to hold plan assets in trust.**
- **Failing to follow the terms of the plan (unless inconsistent with ERISA).**
- **Failing to properly select and monitor service providers.**
- **Taking any adverse action against an individual for exercising his or her rights under the plan (e.g., firing, fining or otherwise discriminating against him/her).**

EBSA will prosecute embezzlements, kickbacks and false statements as criminal violations. For ERISA compliance assistance, please contact us.

Ineligible Expenses

Certain care expenses do not qualify for reimbursement:

- Child support or care if the employee is a non-custodial parent
- Payments for dependent care services provided by the dependent, the spouse's dependent or a child under age 19
- Healthcare costs or educational tuition
- Overnight care for dependents (unless it allows the employee and spouse to work during that time)
- Nursing home fees
- Diaper service
- Books and supplies
- Activity fees
- Kindergarten expenses

Use It or Lose It

Funds in a dependent care FSA do not roll over from one plan year to the next, so employees will forfeit any unused funds at the end

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CDHPs: Has Their Time Come?

A recent report found that satisfaction levels was increasing among people in "consumer-driven" health plans (CDHPs), and decreasing among those in traditional health plans. Will CDHPs finally become the employee health plan of choice?

The report, based on the 2011 EBRI/MGA Consumer Engagement in Health Care Survey by the nonpartisan Employee Benefit Research Institute (EBRI), examined satisfaction with health care plans. Researchers looked at several factors involved in health insurance choice, including cost of insurance, cost of care, satisfaction with care, and satisfaction with health plans.

As opposed to past surveys, participants in traditional plans and CDHPs both reported high satisfaction with their access to doctors. However, enrollees in traditional health plans remained more likely than CDHP or HDHP (high deductible health plan) enrollees to be extremely or very satisfied with their overall plan. EBRI noted that dissatisfaction with out-of-pocket costs may be driving more recent satisfaction trends.

When first introduced, CDHPs promised to empower consumers by letting them design their own health plans with a range of options at every stage of treatment and prevention. Perhaps more importantly, a CDHP gives consumers more direct control over — and direct exposure to — their ordinary medical expenses. Designers of these plans assumed that consumers would make more informed choices and forego unnecessary or excess medical care if they had to use more of their own money to pay for it.

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of the plan year and grace period. They will want to calculate their expenses carefully and make sure the care expenses they are budgeting for will qualify for reimbursement.

Employees who participate in a dependent care FSA can claim the dependent care tax credit. However, participation in a dependent care FSA (or any other employer-provided dependent care benefit) offsets dollar-for-dollar the allowable expenses used to calculate the dependent care tax credit. You may want to suggest that employees consult their accountant for advice.

For more information on setting up a dependent care FSA or other flexible spending arrangement, please contact us. ■

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Plan Structure

A CDHP typically combines a tax-advantaged account with a high-deductible health plan (HDHP). Employees can use the account to pay their routine medical expenses, including deductibles. The account can be a health savings account (HSA), health reimbursement arrangement (HRA) or flexible spending account (FSA). The account may be funded by the employer or the employee, depending on the type of account. The employer and/or employee can fund an HSA; the employee funds a flexible savings account with salary deduction contributions; and the employer funds an HRA with no employee contributions. The HDHP then protects them from catastrophic medical costs.

In this way, CDHPs have three payment tiers: a savings account, the employee's out-of-pocket payments, and an insurance plan. The first tier, the savings account, allows employees to pay for services using pretax dollars.

The second tier is the gap between the amount of money in the individual's pretax account and the policy deductible. The insured must pay whatever amount is not covered by the pretax account. Once healthcare expenses exceed the deductible amount, the high-deductible health insurance plan, the third tier, kicks in.

Once this happens, a CDHP behaves like a traditional health plan. Insureds pay a coinsurance amount for benefits until they reach the HDHP's out-of-pocket maximum. Once they have paid that out-of-pocket maximum, the high-deductible health plan will pay all covered health costs for the remainder of the year.

If you want to encourage employees to think twice about their healthcare spending, the type of tax-advantaged plan you select could make a difference. In plans that use HRAs or FSAs, unused funds disappear every year. This encourages employees to see them as an evaporating asset they should spend, thereby driving up your costs. HSAs differ by allowing unused funds to roll over year to year. This could encourage employees to save their funds for future crises, rather than spending their accounts down.

Moreover, HSAs help employees create a lifelong healthcare fund. Individuals can take their accumulated HSA balances with them when they change employers or retire. This feature transforms health benefits from an annually evaporating asset into a lifelong savings plan for any qualified healthcare expense.

And perhaps most attractive, health savings accounts are triple tax advantaged — tax-free, or tax deductible, when contributed; tax-free as they grow (funds can be invested); and tax-free at withdrawal if spent on qualified medical expenses, whether one day after the money is deposited or 20 years later.

As individuals become more accustomed to self-directed plans for retirement savings and out-of-pocket expenses for traditional health plans continue to rise, employee resistance to CDHPs will likely continue to decrease.

For more information on CDHPs, please contact us. ■

The Costs of Obesity

While Mississippi claims the dubious distinction of being the "fattest state," with a self-reported obesity rate of 34.9 percent among adults, the truth is that the obesity problem affects employers in every state. Even in Colorado, the "slimmest state," more than one-fifth of adults are obese.

Why Worry About Obesity?

Obesity increases the risk of a number of common health conditions, including:

- Coronary heart disease
- Type 2 diabetes
- Cancers (endometrial, breast, and colon)
- Hypertension (high blood pressure)
- Dyslipidemia (for example, high total cholesterol or high levels of triglycerides)
- Stroke
- Liver and gallbladder disease
- Sleep apnea and respiratory problems
- Osteoarthritis (a degeneration of cartilage and its underlying bone within a joint)
- Gynecological problems (abnormal menses, infertility)

In 2008, researchers estimated the medical costs associated with obesity at $147 billion. The medical costs for people who are obese were $1,429 higher than those of normal weight.

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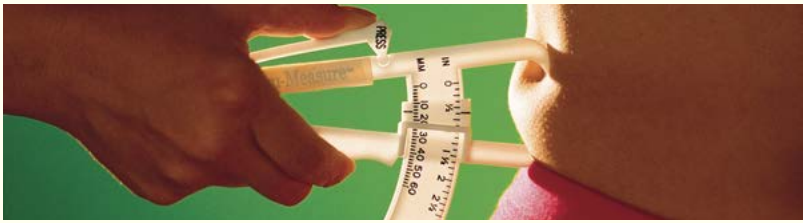
Obese employees will cost you more in workers' compensation benefits as well. A 2007 study by Duke University Medical Center found that morbidly obese workers (with weights 100 percent or more above normal for their height) filed 45 percent more claims than workers of normal weight. Their claims also cost more — with 5.4 times the medical costs and nearly 8 times the indemnity claim costs as claims from workers of normal weight. A study by the American Medical Association concurred that obese workers have higher claim costs, finding that obese workers with workers' comp claims have five times more lost days and medical costs more than twice as high as people of recommended weight.

Health experts recommend that people who are obese or overweight lose weight. Even a small weight loss (between 5 and 10 percent of current weight) will help lower the risk of developing diseases associated with obesity. People who are overweight, do not have a high waist measurement, and have fewer than two risk factors may need to prevent further weight gain rather than lose weight.

Some of the actions employers can take to promote weight loss include:

- **Offer health risk assessments (HRAs).** These confidential questionnaires help gauge an individual's risk for certain conditions, based on health history and other factors. The information gained in an HRA can provide a starting point for counseling and program development for individuals with identified health risks.
- **Offer wellness and disease prevention programs and benefits.** Offer employees programs and health benefits that help them stay healthy, including nutrition, physical activity, and obesity counseling; subsidize health club memberships, and provide insurance discounts for preventive services. Investing in employee health not only improves productivity but also cuts down on absenteeism.



- **Provide opportunities for employees to be active during the day.** Maintain clean, well-lit stairwells to encourage employees to take the stairs, and focus on providing healthy food options in vending machines and in cafeterias.
- **Replace smoke breaks with fitness breaks.** Encourage employees to engage in physical activity on their lunch hours and breaks. Employers have long allowed smokers to step outside for a cigarette break. Consider offering "walking breaks" instead, whereby

What Exactly is Obesity?

Obesity simply means having too much body fat. Several methods can determine body fat as a percentage of total weight, including underwater weighing, near-infrared interactance and DXA. However, due to cost, the body mass index (BMI) is most commonly used. Not an actual measurement, it is a ratio of weight to height and can provide a fairly reliable estimate of body fat.

Although BMI can be used for most men and women, it does have some limits:

- It may overestimate body fat in athletes and others who have a muscular build.
- It may underestimate body fat in older persons and others who have lost muscle.

Using pounds and inches, you can calculate BMI using this formula: [weight (lb)/height (in)]^2 x 702

You can also find an online calculator at http://nhlbisupport.com/bmi/bmicalc.htm. BMI ranges for adults are shown in the following table:

BMI	Weight Status
Below 18.5	Underweight
18.5 – 24.9	Normal
25.0 – 29.9	Overweight
30.0 and Above	Obese

Measuring waist circumference also helps screen for possible health risks that come with overweight and obesity. Individuals who have most of their fat around the waist rather than the hips have a higher risk for heart disease and Type 2 diabetes. This risk goes up with a waist size greater than 35 inches for women or 40 inches for men.

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employees can leave their desks for 10 minutes or so to walk around the office. Walking breaks can improve mental focus in addition to physical health.

- **Advocate for preventive services.** Generally, physicians do not receive enough support, resources or reimbursement from insurance companies to prescribe preventive care for patients with chronic diseases. Employers can ask their insurers to offer plans that cover nutrition counseling, weight loss and weight management programs to decrease obesity and prevent the development of chronic diseases.

For more information on using a wellness program to combat obesity, please contact us.

FSA Changes Take Effect in 2013

For 2012 and earlier years, the IRS put no specific dollar limit on the amount of money employees could contribute to a health flexible spending arrangement, also known as an FSA. Plans simply had to prescribe either a maximum dollar amount or maximum percentage of compensation that could be contributed, as determined by the employer.

That changes in 2013. The Patient Protection and Affordable Care Act limits the amount of pre-tax dollars individuals can contribute to a health FSAs to $2,500 for tax years beginning after 2012.

The $2,500 limit applies on an employee-by-employee basis. Each employee may contribute up to $2,500 for a plan year, regardless of the number of other individuals (for example, a spouse, dependents, or adult children (see § 105(b)) whose medical expenses are reimbursable under the employee's health FSA. Consistent with this rule, if each of two spouses is eligible to elect salary reduction contributions to an FSA, each spouse may contribute up to $2,500, even if both participate in the same health FSA sponsored by the same employer.

For employers who run their benefit programs on a calendar-year basis, the change will take effect January 1, 2013. However, employers running their benefit plans on a fiscal year basis must take care to ensure that the overlap between fiscal and calendar years does not cause employees to exceed the contribution limit in 2013. If that occurs, the employer's plan could lose its tax-favored status for the plan year.

Generally, if employees don't use all of the money they've contributed by the end of the plan year, they will lose it, although the employer may allow a grace period of up to two months and 15 days after the end of the plan year for employees to use the money. For this reason, employers should be sure employees are aware of this change and base their contributions on an accurate estimate of the qualifying expenses they will incur during the year.

The $2,500 limit will be indexed for cost-of-living adjustments for plan years beginning after December 31, 2013.

For information or assistance with an FSA or other benefit program, please contact us.

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