

**COBRA Boot Camp Part IV Q&A** – the following questions were asked during the two webinar sessions in September 2018

**Q.** What is the benefit of pre-paying the FSA benefit?

**A.** If you accelerate your FSA payroll deductions while still employed, you have the opportunity to pre-pay your COBRA premiums with pre-tax dollars. If you elect COBRA and make payments to the plan after you are no longer on payroll, those payments are from post-tax money. You are only able to accelerate payroll deductions for the Health Care FSA in the event that you have advance notice of termination and/or retirement.

**Q.** Our FSA plan qualifies as an Excepted Benefit plan. Are there any circumstances we would need to offer COBRA?

**A.** When you have an excepted Health Care FSA, you would be required to offer COBRA to employees that have not overspent their account. That would mean you offer COBRA when they have a positive balance when they terminate employment or lose eligibility because of a reduction in hours. The maximum duration of COBRA under these circumstances is through the remainder of the plan year in which they were a participant. You would not be required to offer them open enrollment to the next plan year, however, if you have grace period or rollover and they have paid their premiums in the last month of the plan year, that would trigger the grace period or rollover and they would participate into the next year, but would not have any additional premiums to pay.

*The material provided in this Q&A is by Employee Benefits Corporation and is for general information purposes only. The information does not constitute legal advice and may not be relied upon by anyone as such.*



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**Q.** Exactly what is an integrated HRA? If the group health plan is with (for example) Dean Care and the HRA is with EBC, is that integrated?

**A.** Integration means that the HRA is conditional on enrollment in the underlying employer sponsored medical plan. So in your example, employees that are enrolled in the Dean Care Health plan that you sponsor are automatically enrolled in the EBC HRA that acts as the companion benefit. That meets the definition of integrated because you cannot enroll in the EBC HRA without first being enrolled in the Dean Care Health plan.

**Q.** When you mentioned employee paying full premium amount while on leave, did you mean the full monthly amount EE pays both EE and ER portions while on leave?

**A.** Yes, this would be true if the employee is on an unpaid, non-FMLA leave of absence.

**Q.** Is it very common that an employer would actually have a shorter FSA eligibility window vs. the medical?

**A.** Effective with the Affordable Care Act (ACA) for plan years beginning on or after 1/1/14, any non-excepted Health Care FSAs are subject to market reform rules and that would require unlimited preventive care benefits. Because that is not possible to comply with, employers would have more careful with defining eligibility to avoid this by making sure the FSA eligibility mirrors or is longer than the eligibility for the underlying group medical plan.

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**Q.** If the buying company in a Merger/Acquisition does not offer an FSA, but the seller did and the employment will be maintained by the buying company how will the COBRA be maintained for members who are already on COBRA?

**A.** The selling company, if it is maintaining a health FSA for any remaining employees, would retain the COBRA obligation. Otherwise, the buying company will have an obligation to continue the health FSA for those COBRA qualified beneficiaries if it is considered a successor employer and the sale is an asset sale.

**Q.** We have a client engaging in an asset sale this month. Some of the employees will continue as employees of the buying entity, others will lose their jobs. The seller will no longer have a group health plan. The buyer does offer a group health plan. Do I understand slide 47 correctly to mean the buying group is responsible for offering COBRA to the employees terminated as a result of the asset sale?

**A.** Under the facts presented, yes, the buying group would have an obligation to offer COBRA.

**Q.** Does actual COBRA notice/paperwork have to be provided if the employee wants to pre-pay from final payments for the remainder of the plan year?

**A.** Yes, COBRA needs to be offered, and elected (though the employer or a third party could technically elect on the employee's behalf).

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