

Webinar Eligibility Q&A – the following questions were asked during the two webinar sessions in (October)

Q: How do you verify the information when parents are divorced or separated?

A: The participant is the individual who is in charge of monitoring the election amount to ensure that the election does not exceed what is allowable in the participant's unique circumstance.

Dependent Care FSA election amounts are dictated by a number of things that are outside of the parameters of the employer's knowledge including, but not limited to, whether the employee's spouse is working, whether the employee's spouse is a full-time or part-time employee, whether the employee's spouse is a full-time student, whether the employee is divorced, whether a married employee is separated, custody agreements in the event of a divorce or separation, the employee's spouse's election at the spouse's employer, and, in the case of cohabitating parents who are not married, who is claiming the child as a dependent.

If the participant accidentally makes an election when not permitted to or elects too much, an audit of that participant's income taxes would render penalties for the participant, not the employer-sponsor of the Dependent Care FSA. The employer can rely on the employee's attestation when they sign an enrollment form and upon submission of a request for reimbursement.

Q: Can the company pay 100% of owner's medical insurance for a Sub S or other "disqualified" owner since they don't qualify for pre-tax if all eligible employees receive a smaller percentage of employer contribution?

A: Cafeteria Plan regulations do not consider this to be an issue. Under the Affordable Care Act, there was the intention that insured plans would be required to perform nondiscrimination testing beginning in 2011. The IRS issued a notice in early 2011, that said they would not be enforcing this provision until they issued guidance on how testing would work. To date there has not been any guidance issued, which means an employer with an insured plan can continue such an arrangement until there is guidance to the contrary. As

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.

Employee Benefits Corporation | Eligibility

we do not perform self-funded plan testing for major medical plans, we are not certain if this would be allowable if the medical plan is self-funded.

Q: If we do not have an FSA with plan year rollover or a grace period, does that impact someone moving to an HDHP with an HSA?

A: A standard health FSA election in a prior plan year will not impact whether an individual is eligible to make HSA contributions in the plan year following unless that standard health FSA has rollover or a grace period and the individual has a balance in the standard health FSA when the plan year ends.

Q: Can an employee use HSA funds to pay for medical expenses for a dependent child that is not covered by the employee's health plan?

A: Yes. Who is covered under the employee's health plan does not dictate whose expenses are eligible for a tax-free distribution from the HSA. An employee may be reimbursed for a spouse or any other individual who may be claimed as the employee's income tax dependent at that time, even if the employee only has a single HDHP.

Q: An employee may not contribute to an HSA up to the max amount but only up to the limit dictated by the number of months eligible? If hired in May, can contribute only 8/12 of the max amount?

A: If an individual becomes newly eligible to make HSA contributions in May, that individual may only contribute the monthly maximum for the months eligible.

For example, if the individual had a single HDHP, then the individual could contribute 8/12ths of \$3,450 or \$2,300.

The full contribution rule gives this individual an opportunity to contribute up to the HSA contribution maximum, but only if this individual remains HSA eligible for all of the following year.

This full contribution rule allows an individual to contribute up to the annual HSA contribution maximum based on the coverage that individual has in place on December 1.

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.



1350 Deming Way, Suite 300
Middleton, WI 53562-4640
P: 800 346 2126 | 608 831 8445
F: 608 831 4790
An employee-owned company
www.ebcflex.com

Employee Benefits Corporation | Eligibility

So, presuming this individual remains eligible to make HSA contributions throughout the year, and still has single coverage on December 1, this individual could contribute up to \$3,450 for this year so long as the individual remains HSA eligible for all of 2019.

Q: When you are calculating entitlement for Medicare, how do you calculate catch-up? Do they get the full \$1,000 or is it pro-rated?

A: Whether an individual age 55 or older may make the full catch-up contributions does not depend on when in the year the individual turned age 55, but it does depend on whether the individual is eligible to make HSA contributions for the entire year.

If an individual is eligible to make HSA contributions for every month of the calendar year in which the individual turns age 55, then the full catch-up contribution of \$1,000 is available.

If, however, that individual became eligible to make HSA contributions during the year or ceased to be eligible to make HSA contributions during the year, the catch-up contribution limit is pro-rated in the same manner as the standard HSA contribution limit.

For example, if a 67-year-old individual signed up for Medicare on November 1, 2018 and became entitled to Medicare retroactively to May 1, 2018, that individual is only eligible to make 4/12ths of the catch-up contribution for that year.

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.



1350 Deming Way, Suite 300
Middleton, WI 53562-4640
P: 800 346 2126 | 608 831 8445
F: 608 831 4790
An employee-owned company
www.ebcflex.com