

Legislative Brief

HCR - HEALTH FSA LIMIT

Nov. 14, 2014

HCR HEALTH FSA LIMIT INCREASES TO \$2,550 FOR 2015

SUMMARY:

- Under the Affordable Care Act (ACA), employees' salary reduction contributions to their health FSAs are subject to a maximum dollar limit.
- For 2015 plan years, the dollar limit increases by \$50 to \$2,550 (for 2013 and 2014 plan years the dollar limit was \$2,500).
- Prior to the end of the 2014, 125 cafeteria plan documents should be updated for ACA's new FSA limit.

The Affordable Care Act (ACA) imposes a dollar limit on employees' salary reduction contributions to a health flexible spending account (FSA) offered under a cafeteria plan. This limit first became effective for plan years beginning on or after Jan. 1, 2013 and is indexed for cost of living adjustments as follows:

- 2013: \$2,500
- 2014: \$2,500 (remained unchanged)
- 2015: \$2,550 (increases by \$50)

Employer Limits

An employer may continue to impose its own dollar limit on employees' salary reduction contributions to a health FSA, as long as the employer's limit does not exceed the ACA's maximum limit in effect for the plan year. For example, an employer may decide to continue limiting employee health FSA contributions for the 2015 plan year to \$2,500.

Per Employee Limit

The health FSA limit applies on an employee-by-employee basis. Each employee may only elect up to \$2,500 in salary reductions (\$2,550 for 2015), regardless of whether he or she also has family members who benefit from the funds in that FSA.

However, each family member who is eligible to participate in his or her own health FSA will have a separate limit. For example, a husband and wife who have their own health FSAs can both make salary reductions of up to \$2,500 per year (\$2,550 for 2015), subject to any lower employer limits.

If an employee participates in multiple cafeteria plans that are maintained by employers under common control, the employee's total health FSA salary reduction contributions under all of the cafeteria plans are limited to \$2,500 (\$2,550 for 2015). However, if an individual has health FSAs through two or more unrelated employers, he or she can make salary reductions of up to \$2,500 (\$2,550 for 2015) under each employer's health FSA.

Salary Reduction Contributions

The ACA imposes the \$2,500 limit (\$2,550 for 2015) on health FSA salary reduction contributions. Non-elective employer contributions to a health FSA (for example, matching contributions or flex credits) generally do not count toward the ACA's dollar limit. However, if employees may elect to receive the employer contributions in cash or as a taxable benefit, then the contributions will be treated as salary reductions and will count toward the ACA's dollar limit.

In addition, the limit does not impact contributions under other employer-provided coverage. For example, employee salary reduction contributions to an FSA for dependent care assistance or adoption care assistance are not affected by the health FSA limit. The limit also does not apply to salary reduction contributions to a cafeteria plan that are used to pay for an employee's share of health coverage premiums, to contributions to a health savings account (HSA) or to amounts made available by an employer under a health reimbursement arrangement (HRA).

Grace Period/Carryover Feature

A cafeteria plan may include a **grace period** of up to two months and 15 days immediately following the end of a plan year. If a plan includes a grace period, an employee may use amounts remaining from the previous plan year, including amounts remaining in a health FSA, to pay for expenses incurred for certain qualified benefits during the grace period. If a health FSA is subject to a grace period, unused salary reduction contributions that are carried over into the grace period do not count against the \$2,500 limit (\$2,550 for 2015) applicable to the following plan year.

Also, if a health FSA does not include a grace period, it may allow participants to **carry over** up to \$500 in unused funds into the next plan year. This is an exception to the "use-or-lose" rule that generally prohibits any contributions or benefits under a health FSA from being used in a following plan year or period of coverage. A health FSA carryover does not affect the limit on salary reduction contributions. This means the plan may permit the individual to elect up to \$2,500 (\$2,550 for 2015) in salary reductions in addition to the \$500 that may be carried over.

Plan Amendments

A cafeteria plan with a health FSA must be amended to include the ACA's dollar limit (or a lower limit at the employer's option). In general, cafeteria plan amendments cannot be made retroactively. However, the IRS sometimes provides exceptions to this rule. Cafeteria plans with health FSAs must be amended for the ACA's limit on or before **Dec. 31, 2014**. To take advantage of the delayed amendment deadline, the cafeteria plan must comply in operation with the ACA's limit for health FSAs for plan years beginning after Dec. 31, 2012.

The health care reform law—the Affordable Care Act (ACA)—has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of the health care reform requirements. This Kapnick Insurance Group Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information regarding health care reform and related topics, and is based on general information available at the time it was prepared. Readers should contact their tax and/or legal counsel for advice that is appropriate to their specific circumstances. This information cannot be used by any taxpayer to avoid tax penalties.

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