

## New IRS Guidance About Flexible Spending Accounts (FSAs)

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Edward A. Wodarczyk, Esq., [ewodarczyk@tuckerlaw.com](mailto:ewodarczyk@tuckerlaw.com), (412) 594-3920

The IRS recently issued more guidance about the flexibility that employers may provide to employees during 2021 and 2022 for health FSAs and dependent care FSAs. IRS Notice 2021-15 offers more details about how FSAs can be improved in the following ways:

- Unused amounts may be carried over from prior years ending in 2020 and 2021
- Employers may allow employees to opt out of the carryover of unused amounts if this benefit would hurt their HSA eligibility
- Carried over amounts won't limit the amount limits already available to employees during 2021
- Grace periods for the 2020 and 2021 plan years may be extended to 12 months after year end, even for plans that didn't have grace periods in effect for the 2020 plan year
- Unused amounts may still be used through the end of the current plan year by employees who are no longer participants
- Dependent care FSAs may be used for children who reach age 13 during 2020 or 2021 as long as the enrollment period for the FSA was before February 1, 2020

For more details, see comments. For more information on the new IRS Guidance about Flexible Spending Accounts or other Employee Benefits (ERISA) or Healthcare related topics, Contact Ed Wodarczyk at [ewodarczyk@tuckerlaw.com](mailto:ewodarczyk@tuckerlaw.com).