FLEXBANK ADMINISTRATORS

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Employer FSA Administrative Guide

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Flexible Spending Accounts

Welcome to FlexBank

We want to first and most importantly thank you for the opportunity to administer your benefit. It is our number one priority to build a strong partnership with you and to provide exceptional customer service to you and to your employees.

This guide highlights many of the rules and regulations you must follow to keep your plan compliant.

Enrolling New Employees

New employees should be given:

- ✓ employee FSA brochure,
- ✓ FSA enrollment form (or through the employer's online enrollment portal),
- ✓ direct deposit authorization,
- ✓ claim form, and
- ✓ Summary Plan Description (SPD) and any subsequent material modifications, and
- ✓ FlexBank.net employee login instructions.

FSA forms may be obtained from our web site at www.FlexBank.net. Click on "Employers" then "Forms and Brochures".

Brochures are available in two forms: electronically at no charge or pre-printed booklets at our cost of $1.50 each.

We suggest you emphasize the employee's health FSA election, with few exceptions, will remain the same for the entire plan year. Please refer to FlexBank's Administrators Guide to Permissible Mid-Year Election Changes brochure for more information. This brochure can be found on www.FlexBank.net, click on "Employers" then "Forms and Brochures". Your FlexBank Account Manager can also email it to you. **NOTE**: *Dependent care elections are different in that the participant may change their election due to a change in cost or provider.*

Reminder*:* You are no longer permitted to offer a general purpose health flexible spending account if you do not offer a group health plan. However, you may offer one limited to reimbursement for vision and dental expenses. The work related dependent care FSA may also be offered if you do not offer a group health insurance plan.

Furthermore, you may only offer the general purpose FSA to the same employees eligible for your group health plan.

Completion of the Enrollment Form

It is imperative that the enrollment form is completed in its entirety, even if the employee declines to participate. This is important as it proves that you offered the benefit to all eligible employees. Prior to sending us the form, please review to make sure the employee has completed all the boxes, signed and dated it. **NOTE:** *Forms must be dated prior to the participant's effective date.*

For Group Insurance Premium Contributions: We recommend each employee formally elect to pay their group insurance premium contributions before tax by completing and signing an enrollment form when they are hired. This election is evergreen until revoked at the beginning of a new plan year or as a result of a qualifying life event that permits a mid-year change of election. FlexBank does not track insurance premiums in our system; thus you do not need to notify us of mid-year group insurance premium changes.

Flexible Spending Accounts

On the enrollment form there are two (2) information boxes that you, the employer, must complete. When completing this section, please note:
1) Effective Date: New employees are generally eligible to participate at the same time their group health insurance becomes effective.

2) Date of 1st Payroll Deduction: The date when the employee actually has their first payroll FSA deduction.

Helpful Hints for Types 1, 2 and 3 on the FSA Enrollment Form

Many employers are offering high deductible health insurance plans along with a Health Savings Account (HSA). Generally, a person who contributes to, or whose spouse contributes to an HSA may not participate in a General Purpose Health Care FSA (except in the situations as described in Type 2 and Type 3 below).

Type 1: Full Family General Purpose FSA: Elect a General Purpose Health FSA if neither you nor your spouse contribute to a Health Savings Account (HSA). A General Purpose Health FSA automatically covers you and all of your dependents for reimbursement of eligible medical, vision, and dental expenses.

Type 2: Partial Family General Purpose FSA: Elect a Partial-Family General Purpose Health FSA where your spouse contributes to a Health Savings Account (HSA). A Partial-Family General Purpose Health FSA enables you to pay for eligible medical, vision, or dental expenses for yourself and / or your children but not for your spouse who contributes to the Health Savings Account (HSA). When electing a Partial-Family General Purpose Health FSA, you may not submit expenses for your spouse.

Type 3: Full Family Limited Purpose FSA: Elect a Limited Purpose Health FSA where you and/or your spouse contribute to a Health Savings Account (HSA). As permitted by IRS rules, you may use a Limited Purpose Health FSA to pay for vision, dental, and post-deductible medical expenses while continuing to maintain eligibility to contribute to a Health Savings Account (HSA).

Form of Ownership is Important

Owners: Only owners who are also employees of a "C" corporation may participate in a Section 125 Plan. Sole proprietors, partners within a partnership, owners of an LLC, owners of an LLP and more than 2% owners of an S-Corporation are prohibited from participating.

Owners' Family Members: Rules of attribution apply to S corporations, thus more than 2% owner's spouses, parents, children and grandchildren may not participate. Family members of C corporations, sole proprietors and partners in a partnership may participate in the plan.

Examples of Section 125 pre-tax contributions include group insurance premiums, health savings account contributions*, health FSA and dependent care FSA contributions.
**Please note, health savings account contributions may be made on a post-tax basis and deducted on the HSA owner's personal tax return.*

NOTE: If the form of ownership changes during a plan year, employers must advise FlexBank of this change. As an example of the importance, an individual who becomes or ceases to be a more-than-2% shareholder during the course of a Subchapter S corporation's taxable year is treated as a more-than-2% shareholder for the entire year. This "entire-year" rule must be taken into account when determining the eligibility of Subchapter S shareholder-employees to participate in a cafeteria plan and has the potential to result in an individual being retroactively disqualified from participating in the plan.

Claim Reimbursement

FlexBank reimburses within one business day of receiving an employee's paperwork! Participants may submit their claim form and documentation to FlexBank for reimbursement by:

Mail: 1250 West Dorothy Lane, Suite 107, Dayton, Ohio 45409
Fax: 937.299.7992 ~ 888.677.9373
Scan/email: Claims@FlexBank.net
Mobile: http://www.FlexBank.net/m

Please encourage participants to call our office if they have any questions about eligible expenses as well as the documentation they need to submit with their claim.

FlexBank offers reimbursement via check, direct deposit or debit card (see "Optional Feature" later in this Guide). If an employee would like to have reimbursements directly deposited into their personal bank account, they must complete a FlexBank direct deposit authorization form.

FlexBank.net

Our web page has been designed to streamline information for easy access for FSA participants. It includes basic information for employees as well as employers, accessibility to forms, links to IRS publications, "FAQs" (frequently asked questions), and other information pertinent to administration. For the employer side of the website, from the title bar, click on "Employers", "Learning Center". Our site will then take you to a menu that will allow you to choose many options.

If you or one of your employees cannot find what you need on FlexBank.net, you may click on "Contact Us". Enter your question and click on "Send". One of our Account Managers will either call or email you with the answer. Or, we invite you to call our office.

We hope that you and your employees will find our web site to be both convenient and helpful. Any feedback you have is appreciated.

Employee Account Balances + Employer Company Level Access via FlexBank.net

You should have already received instructions for employees to login to FlexBank.net for account balance information.

In addition, you, the employer, may login and check employee account balances and access company level reporting as well as enter additions, changes and terminations.

Login Instructions

1. *www.FlexBank.net*

2. Click on *"Employers"*, *"Employer Login".*

3. First time users
   Employer Number (see above), Tax ID# (with dashes) and Passphrase (Contact your Account Manager for your specific Passphrase).
   Click "Submit".

4. FlexBank Employer Account Creation
   Enter email address.
   Enter a username.
      Username must be between 4 - 12 letters and/or numbers.

Enter a password.
Your password must:
Be at least 8 characters in length
Contain at least 1 lowercase and 1 uppercase letter
Contain at least 1 special character (!@#$%^&*)
Contain at least 1 number (0–9)
Confirm password.
Click “Submit”.

5. Employer Account Dashboard
You may now access the reports detailed above.

FlexBank Mobile
Employees can use our mobile to check account balances, reimbursement history and submit claims. In order to access the mobile, participants must first establish a login through the main www.FlexBank.net site. Next, to access the mobile site, go to FlexBank.net\m on a mobile device with internet access and login with the user name/password already established.

Annual Re-Enrollment
Annual re-enrollment is generally conducted during the 2-month period preceding plan renewal. At this time we will send you re-enrollment forms, left to spend letters for participants with a balance for you to distribute as well as instructions on how to complete the re-enrollment process. Completed forms for the new plan year are required to be in our office no later than 30 days prior to the start of the new plan year.

Online Enrollment
If you are interested in a paperless enrollment process, we offer our online enrollment portal. Please call your FlexBank Account Manager if you are interested in learning more about this option. FlexBank offers online enrollment free of charge.

Summary Plan Description (SPD) Distribution Rules
The Department of Labor (DOL) requires the plan administrator (usually the employer) to automatically distribute the summary plan description (SPD), free of charge, to the plan participants and others who are participating in the plan. The DOL says the employer can mail or hand out the SPD to the plan participants. However, the DOL requires the employer be able to prove that the SPD was distributed. Therefore, you should document that you did, in fact, distribute the SPD. If there are subsequent changes made to the plan and you chose to prepare a Summary of Material Modification (SMM) rather than issue a new SPD, the same distribution rules apply to the SMM as to the distribution of the SPD.

The DOL also has approved the electronic distribution of certain documents including SPDs. The employer has to comply with these four requirements if you want to distribute the documents electronically:
1. The employer must take appropriate and necessary measures to ensure that the system for furnishing the documents results in actual receipt by the employees (such as through the use of a return - receipt electronic mail feature or periodic reviews or surveys by the plan administrator to confirm the integrity of the delivery system);
2. The employer must furnish the documents in a manner consistent with the style, format and content requirements applicable to the specific document;

3. The employer must, at the time the electronic document is furnished (each time electronic disclosure is used), notify each employee through electronic means or in writing (clearly and conspicuously) of the document that is being electronically furnished and the significance of the document;

4. The employer also must notify the employees (each time electronic disclosure is used) of their right to request and receive a paper copy of the document and that the copy will be provided free of charge.

Electronic Disclosure Safe Harbor Extends to Two Categories of Individuals

Different rules apply depending on whether or not the employee has work-related computer access.

I. Employees with Work-Related Computer Access

An employee is considered to have work-related computer access if:

A. They must have the ability to effectively access documents furnished in electronic form at any location (including the employee's home) where the employees are reasonably expected to perform their duties as employees; and

B. Access to the employer's electronic information system must be an integral part of their employment duties. So, for example, simply having a computer kiosk available does not constitute work-related computer access.

If the employee has work-related computer access, as defined above, the employer can distribute the documents electronically without the employee's prior consent.

II. Employees without Work-Related Computer Access

If the employee does not have work-related computer access then the employer cannot distribute the documents electronically unless:

A. The employee has provided an address for receipt of the document and has consented electronically in a way that demonstrates his or her ability to access information in the electronic form being used; and

B. The employee's consent statement must: (i) identify the document to which the consent applies, (ii) explain that consent may be withdrawn at any time without charge and provide the procedures for withdrawing or updating address or other information, (iii) explain the employee's right to request a paper copy of the electronically furnished document and that the paper version will be free of charge, (iv) identify any software and hardware requirements to access and retain the identified document(s) that will be electronically delivered; and

C. A revised consent form must be provided any time the hardware or software requirements change, and the employee must provide renewed consent.

As a practical matter, it is very difficult to comply with the safe harbor and to distribute documents electronically if the employee does not have work-related computer access. Therefore, we suggest sending the documents, via first class mail, to those employees without work-related computer access.

In short, you should be able to demonstrate that you did, in fact, distribute the SPD in a timely manner. Therefore, it is important to prove the fact you distributed the SPD to each person and you should retain that proof for at least eight years.

SPD & SMM Distribution Time Frames From Effective Date of the Change

30 days – For instances where the employee has requested a copy of the SPD in writing.
60 days – For plans where there has been a reduction in benefits.
90 days – For a new plan and distribution to newly covered employees.
210 days – For plans that have been restated without a reduction of benefits.

FlexBank does not offer legal advice. Please consult with your benefits attorney on the comprehensive rules re SPD distribution.

Banking Logistics: Claims Funding and Monthly Fees

Claims Funding

FlexBank's software automatically credits each participant's account in the amount of his per pay period election. FlexBank cannot actually see into your claims bank account; we process reimbursements based on the assumption that you are depositing all employee deductions on or before the actual pay date.

Therefore, to avoid the potential of having checks bounce, you will need to make sure you deposit elections each pay period on a timely basis. Actual claims paid will fluctuate throughout the plan year. However, depositing collective monies from all participants to your corporate FSA claims checking account evenly throughout the coverage period is typically sufficient to cover the varying level of claims.

If you have an ACH fraud filter on your account, please notify your bank of FlexBank's client ID number = 1311465080.

Periodically, FlexBank may ask that you deposit additional funds into the corporate FSA claims checking account. This additional deposit will be necessary if year to date claims from all participants exceed total deposits made to date. This is due to the IRS requirement that the entire health FSA annual election made by each employee be available for reimbursement throughout the coverage period. Should a sufficient number of full annual election claims be requested early in the plan year, there may not be sufficient collective funds in your corporate FSA claims checking account to cover the withdrawal obligations. If this occurs, we will call you and request that additional monies be deposited.

You may deposit monies in one of two ways:
1) You may deposit what we call *Additional Funds*. This is an extra amount of money that continually remains in the checking account to cover excess varying claim amounts. FlexBank must be notified if these funds are removed from the account.

2) You may deposit what we call *Advanced Deposits*. This is an early deposit of the amount you will be depositing for future pay periods. The number of future pay period deposits needed is determined by the amount of the claims required to be paid at the time we call.

Either way, we must know which type of extra monies you are depositing because our system accounts for each differently. Our system uses this money solely for the payment of claims. If you are using the same account for claims and administrative fees (see "Monthly Billings" below), please make sure you have deposited sufficient funds to cover the fees.

FlexBank is not able to view balances and transactions in your actual bank account. Therefore, it is also important to notify FlexBank if you remove funds from the corporate FSA claims checking account. We must update our software to match your withdrawal.

If you offer the health FSA debit card, additional funding equal to 5% of total liability will be required.

Monthly Billing and Reports

Monthly notices for administration fees will be emailed to you on the first business day of each month for the previous month's fee. Fees are electronically collected (ACH withdrawal) on the first business day following the 25th of each month from the checking account of your choice.

Fees for terminated employees are payable through the end of the month of termination.

If you have an ACH fraud filter on your account, please notify your bank of FlexBank's client ID number = 2311465080.

Included with our billing statement are reports formatted in Excel to assist you in reconciling your corporate FSA claims checking account. Our monthly billing reports will include:

- ✓ Claims Register listing all checks, direct deposits and / or debit card swipes processed during the prior month.
- ✓ Deposit Register totaling all deposits that *should have been made* during that 30-day period. FlexBank cannot see into the actual bank account; our software assumes that the same deposits are being made each pay period unless you notify us otherwise. We strongly encourage you to check your actual deposits against those we think have occurred. If our records do not match, something has changed. We need to know what has changed, as we pay claims based on the assumption that a specific amount has been deposited to the reimbursement checking account. Discrepancies could lead to bounced checks and we definitely do not want that to happen.
- ✓ Employee detail showing FSA annual election, YTD deposits and YTD claims by employee.

NOTE: If you are using one corporate bank account for both claims and administrative fees, please make sure to deposit sufficient funds to cover fees as our system uses the payroll deductions and any additional or advanced funds solely for claims payments.

Mid-Year Election Changes

IRS rules state mid-year changes of an annual election must be *on account of* a permissible event and be *consistent with* the change in status. These changes can be confusing. Therefore, we recommend that you refer to your plan document or the Administrators Guide to Permissible Mid-Year Election Changes to be sure the change is permissible. This guide can be found at www.FlexBank.net, click on "Employers" then "Forms and Brochures".

A *Change of Status* form should to be sent to FlexBank, or the information entered into the FlexBank.net employer portal, whenever an employee's status change affects their election amount. If you need assistance in completing the form, please call your FlexBank Account Manager.

The Change of Status form may be found at www.FlexBank.net, click on "Employers" then "Forms and Brochures".

Please note, implementing an HSA-eligible health insurance plan is not a qualifying event and flexible spending account election changes may not be made based on this occurrence. See the section "HSA Implementation & How Does It Affect Your FSA" of this brochure for additional information and/or call your FlexBank Account Manager to discuss.

Please make sure that ALL of the following information is included:

Section I -- Employee Information
Employer Name
Employee Name & Social Security Number
Address change (if applicable)

Section II -- Reason for Change of Election
Check the box next to the event and attach evidence of the event as requested on the form.

Section III -- Change of Election Amount
Indicate the current amount being withheld for the appropriate account.
Indicate the new amount to be withheld for the appropriate account.
Indicate the actual payroll date of the change.

The employee and the employer must sign when the change is due to birth or adoption of a child, marriage or divorce, or a change in work status by either the employee or his / her spouse.

Employment Termination Procedures & FSA COBRA

Termination Procedures

When you become aware of a terminating employee, you need to notify our office **immediately** using FlexBank's change of status form.

Indicate the benefit end date (generally the actual date of termination; this will be the last date the participant is permitted to incur claims),
Indicate the date of the last payroll deduction, and
Indicate the FSA amount withheld for the last payroll.

Only the employer must sign the form for termination of employment.

FlexBank is not responsible for the payment of claims incurred after an employee terminates if we are not promptly notified.

Health FSA (medical, vision, dental) claims incurred prior to termination are reimbursable up to the full annual election. The terminated employee has up to 90 days following the end of the current coverage period to submit eligible expenses that were incurred while employed.

The Uniform Coverage Rule causes a health FSA to operate like insurance, with the employer bearing risk, as would an insurance company that provides coverage for a fixed monthly premium. Thus, an employer may experience a loss if a participant terminates employment after incurring year-to-date expenses exceeding year-to-date deposits.

NOTE: *It is not permissible to require the participant to repay any experienced losses to the plan upon termination of employment. This would be a method of eliminating the employer's risk of loss, and it therefore would be a direct violation of the uniform coverage rule and is not permitted.*

At what point is an employee NO LONGER eligible?
You need to decide how long an "employee" is an "employee" not only for the FSA, but also for all other benefits. As your FSA claims administrator, an employee is "eligible" for claims until otherwise notified. You must notify FlexBank when an employee leaves and returns from a leave of absence. Please use a change of status form to do so.

Both situations detailed below include unpaid leave that causes ineligibility as well as termination/rehire situations.

#1 – Duration of less than 30 days
Participant must step-back into their original election; however:
Expenses incurred during the period of non-coverage would not be eligible.
The employer would be prohibited from “catching up” salary reductions upon the employees return.

Example: Mary elects $1,200 in health FSA coverage, terminates on June 30, and is reemployed on July 16. Thus, Mary’s $1,200 election is automatically reinstated for the remaining 5-1/2 months of the plan year. She also resumes making salary reductions of $100 per month. However, her total salary reductions for the remainder of the plan year are $550 – she does not pay the $50 for the 15 days that she was gone. Expenses incurred during this 15-day period would not be covered unless Mary elected COBRA coverage for that period.

#2 – Duration of 30 days or longer
The employer is permitted to offer the following options:
Allow the participant to make a new election;
Require that the participant’s original election be reinstated; or
Keep the participant out of the plan until the next open enrollment period.

Once an employee on unpaid leave ceases to be an active employee, they are considered terminated. Flex benefits cease when an employee is no longer "eligible" to participate. Only claims incurred prior to the date of termination are reimbursable.

Monies deposited prior to termination will be forfeited if the employee did not incur any eligible expenses during active employment.

FMLA Leave of Absence for Companies Employing 50 or More
Employers with 50 or more employees should consult with their benefit advisors to determine their benefit obligations under the Family Medical Leave Act (FMLA).

For employees who continue coverage, contributions may be made in one of three ways: 1) prepay, 2) pay-as-you-go or 3) catch-up contributions.

Health FSA COBRA

The following is general information regarding COBRA for FSAs. It is your responsibility to add the COBRA notification to your initial notice for new employees and also to your qualifying event notice.

Unless maintained by a small employer, a church, or the federal government, health FSAs must offer COBRA coverage to all qualified beneficiaries who lose coverage due to a qualifying event and must provide all required COBRA notices. For a plan to qualify for COBRA’s small employer exception, all employers maintaining the plan must have employed fewer than 20 employees on a typical business day during the preceding calendar year.

Only health care flexible spending account participants with a positive balance (actual deposits exceed YTD claims) are eligible for COBRA continuation. It is our understanding any amounts attributable to the $500 carryover (if offered by the employer) should not be included in this calculation.

Electing COBRA for flexible spending accounts permits the terminating employee to continue deposits on an after-tax basis, for a period of time as specified by COBRA. This will entitle the participant to make withdrawals up to the full limit of his/her annual election.

Terminated employees who 1) are not eligible for COBRA or 2) do not choose COBRA continuation may continue to submit Flex claims after their date of termination for expenses *incurred prior to* termination.

Non-Discrimination Testing

The IRS requires certain mathematical tests be performed in order to determine if your plan discriminates in favor of your "highly compensated" or "key" employees. In addition to these mathematical tests, there are eligibility and benefits tests at each component plan level.

As the plan administrator, you are required to test your plan. As a value added service, FlexBank will perform the three mathematical discrimination tests several times during the year. The initial testing will be done at the beginning of each plan year. These tests will indicate if the plan discriminates based on all "elected" contributions. We will advise you only if your plan is deemed to be discriminatory and will guide you as to what actions should be taken.

Shortly after the beginning of each coverage period, we will request the information required to accurately perform each of the required tests. The IRS requires that any remedy be performed before plan year-end. Failure to remedy the failure of the test(s) could result in tax penalties to certain individuals.

Reporting & Disclosure Requirements

Form 5500 Annual Filing

Employers (except churches and government entities) sponsoring welfare benefit plans such as group coverage for health (including HRAs), dental, disability and term life insurance, may have an annual Form 5500 filing requirement if there are at least 100 participants (employees) in the "welfare benefit plan" on the first day of the plan year. There are additional factors that may affect if and when you must file a Form 5500. Two of those are:

1. whether or not you have a VEBA (plan maintained by a trust);
2. whether or not you have a summary plan description (SPD) per line of coverage or instead, if you have a "wrap document".

This is a brief overview of how your plan could potentially be affected by the filing requirements however; we felt it important to bring the topic to your attention.

FlexBank files Form 5500! Ask your FlexBank Account Manager for details and pricing.

W-2

Work-Related Dependent Care

The IRS requires that employers report amounts contributed for Work-Related Dependent Care in Box 10 of the participant's W-2.

We suggest that you have your payroll system set up with a separate field for work-related dependent care. If done in this manner, dependent care elections can then be printed automatically on the W-2 in box 10.

Health Insurance Premiums

The Affordable Care Act requires employers who file **250 or more** Forms W-2 for the preceding calendar year to report the aggregate reportable cost of applicable employer-sponsored health insurance coverage provided on each employee's annual Form W-2, in box 12, using code DD. Aggregate reportable cost *does not* include amounts contributed to a Health Savings Account, the amount of any salary reduction election to a health Flexible Spending Account, or the cost of coverage under a Health Reimbursement Arrangement. This reporting will be for informational purposes only and will not affect tax liability. Please note, there is already a separate W-2 reporting requirement for certain health savings account contributions.

The guidance currently gives transition relief for employers that file less than 250 Forms W-2 and does not specify any specific implementation date.

Employer FSA Flex Credits

Employers must report aggregate cost of health insurance coverage on employee W-2s if the employer filed 250 or more W-2s in the previous calendar year. So, if you distributed at least 250 Form W-2s for 2017, you must report the aggregate cost of health insurance coverage on employee W-2s on the 2018 Form W-2s. The aggregate cost of the plan is to be reported in box 12 with a code "DD".

Generally, employees' health FSA contributions deducted from gross wages are not required to be reported on the W-2. However, special rules may apply if the employer makes contributions to a health FSA (i.e. employer matching contributions or where the employer seeds the health FSA with funding). The employer contributions to the health FSA must be reported only when the total amount of the employee's health FSA (i.e. both employer and employee contributions) for the plan year exceeds the employee's salary reduction for that plan year for all qualified benefits (group insurance premiums, dependent care FSA, etc.) under the cafeteria plan.

The following are a few examples illustrating the reporting requirement.

<table>
<tr><th>Example</th><th>Total employee salary reduction contributions (including health FSA)</th><th>Employee salary reduction contributions to health FSA</th><th>Employer FSA contribution/flex credits (could be used for any qualified benefit)</th><th>Amount reported for health FSA on employee W-2</th></tr>
<tr><td>1</td><td>$2,000</td><td>$1,500</td><td>$0</td><td>$0</td></tr>
<tr><td colspan="5">Rationale: There are no employer flex credits applied to the health FSA, so no amount is reported for the health FSA.</td></tr>
<tr><td>2</td><td>$2,000</td><td>$1,500</td><td>$1,000</td><td>$0</td></tr>
<tr><td colspan="5">Rationale: The amount of employee's salary reduction election ($2,000) for the plan year equals or exceeds the amount of the health FSA ($1,500) for the plan year, so no amount is reported for the health FSA. In this example, the $1,000 flex credit was not applied to the FSA, it was used for another qualified benefit.</td></tr>
<tr><td>3</td><td>$700</td><td>$700</td><td>$700 (applied to the FSA using a matching $1 for $1 approach)</td><td>$700</td></tr>
<tr><td colspan="5">Rationale: The total amount of employee's health FSA ($1,400) for the plan year exceeds the salary reduction election ($700) for the plan year. The employer must include $700 for the health FSA ($1,400 total health FSA amount minus $700 salary reduction) in the aggregate reportable cost on the W-2.</td></tr>
</table>

Comprehensive guidance on the FSA W-2 reporting requirement may be found:
http://www.irs.gov/pub/irs-drop/n-12-09.pdf

You should check with your payroll vendor or software company to ensure the amounts are properly recorded on the Form W-2s.

Plan Year End

Left to Spend Letters

Two months prior to the end of your plan year, we will create a 'Left to Spend' letter for active employees who still have money in their flex account. The report will summarize annual elections, minus year-to-date claims, and will be sent to your office for you to distribute to participants. This report will remind a participant to incur expenses, if need be, prior to the end of the plan year. For detailed information regarding an account, the employee may contact our office or visit our website, www.FlexBank.net.

Health FSA Forfeiture Rules

A health FSA will have an experience gain for a plan year if contributions to the health FSA exceed health FSA reimbursements. These experience gains are often referred to simply as "forfeitures" because they are the result of amounts remaining in participant accounts that were not used to pay or reimburse eligible expenses incurred during the plan year.

Please note, the forfeiture rules explained in this section do not apply to:

- ✓ dependent care FSA forfeitures for all employers;
- ✓ health FSAs sponsored by government entities and churches;
- ✓ non-elective employer health FSA funding (i.e. employer match, contribution up to $500).

In the instances noted above, employers may retain the forfeitures outright.

In August 2007, the IRS clarified that the employer sponsoring the FSA may retain participant forfeitures outright. The Department of Labor (DOL) has not adopted the same stance. The conservative Plan sponsor would adhere to the DOL forfeiture rules noted below.

Where annual administrative fees *exceed* participant health FSA forfeitures:
Employers may first use annual participant forfeitures to offset annual administrative expenses. If administrative fees are greater than the total participant forfeitures, the employer retains the rights to the entire amount of participant forfeitures for that plan year. This amount may then be:

(A) Returned to the employer from the claims checking account for general employer purposes, or

(B) Left in the claims checking account as a buffer for future claims fluctuations.

Where annual administrative fees are *less than* participant health FSA forfeitures:
If after the total amount of administrative fees have been subtracted from participant forfeitures, and there still remains a balance, the remainder must be distributed to employees who participate in the following plan year. According to the DOL rules, the conservative plan sponsor must distribute forfeitures to employees.

(A) May be used to reduce participant's deposits per pay.
The remaining amount of forfeitures are divided on a reasonable and uniform basis* among all current participants. The employer then suspends each participant's per pay contribution until the entire allocation has been used. At that time, the participant's per-pay deductions would then resume as normal. This is a non-taxable event to the participant.

(B) May be used to increase annual coverage amount.
The experience gains are divided on a reasonable and uniform basis* among all current **participants.** The allocated experience gains are then added to each participant's annual election.

This may create a situation where a participant would then have an election that is more than the employer's specified maximum. Your Plan documents should permit (or be amended to permit) for that possibility. This is a non-taxable event to the participant.

(C) May be used to provide cash refunds.
The experience gains are divided on a reasonable and uniform basis* among all current participants for the Plan Year in which the gain is allocated. This amount is then refunded to participants through the normal payroll system. This refund is considered W-2 wages for purposes of FICA withholding and for federal income tax withholding.

* Under no circumstances are experience gains to be allocated among participants based (directly or indirectly) on their individual claims experience.

Employers May Deduct FSA Claims Paid

Employers may deduct claims paid during their fiscal year for which they file their annual tax return. Forfeitures are (withholdings less claims) considered income to the employer. Please discuss this topic with your tax advisor.

Optional Features

The majority of the flexible spending account rules are governed by the IRS. However, there are a few plan variables that may be elected by the employer. We will discuss these with you during the plan implementation process as to tailor the plan to how you would like it to operate.

Orthodontia Reimbursement

The employer is permitted to choose how your plan reimburses orthodontia expenses. Orthodontia expenses may be reimbursed if 1) paid in a lump sum or 2) your plan may restrict reimbursement to only those instances where the employee has paid a down payment with monthly installments for the period of treatment. If you decide to limit reimbursement to a down payment and monthly installments thereafter, the participant will initially need to submit to FlexBank a copy of the orthodontic agreement as well as a receipt showing that the down payment has been paid. The participant will then need to submit either a copy of the payment coupon or a statement showing what is owed for that month along with a claim form.

It is important that you explain to employees how your plan operates.

Health FSA Maximum

The 2018 IRS maximum for the health FSA is $2,650 and is to be indexed annually by the IRS. You, the employer, may decide your plan's health FSA maximum contribution up to the IRS limit. As an example, you may decide to limit the health FSA election to $1,500.

Eligibility & Waiting Period

You may determine the eligibility for participation in the FSA. A few general rules:

1. You must offer the FSA to the same employees who are able to participate in your group health plan. As an example, you may not offer FSA participation to all employees, but limit group health insurance eligibility to full-time employees only.

2. The waiting period for the health FSA should be the same as the waiting period for your group health insurance plan. If it is different, the group health plan must be available before the health FSA.

3. You are not permitted to have a health FSA with a shorter waiting period than for group health plan. The general concept is that the FSA must be “integrated” with your group health plan. Employees do not have to actually enroll in your group health plan to be eligible for the health FSA, simply be eligible.

4. You are no longer permitted to offer a health flexible spending account if you do not offer a group health plan; other than one limited to reimbursement for out-of-pocket vision and dental expenses. The work-relate dependent care FSA may also be offered if you do not offer a group health insurance plan. Furthermore, you may only offer the general purpose FSA to the same employees eligible for your group health plan.

Taxable Incentive for Waiving Group Health Coverage

You should work with your group health insurance broker to develop a comprehensive strategy for your group health plan. For some employers, part of the strategy is to incent employees to take health coverage offered elsewhere by offering a per pay taxable incentive. If you offer this option, the details must be included in your Section 125 Plan Document.

Health FSA Debit Card

FlexBank continually strives to offer its clients the most comprehensive benefits services possible. This includes the availability of a health care debit card for your FSA participants. This is a very positive feature for the employees, but there are a few things that you, the employer, should be aware of as well.

The Good News:

- Convenience, convenience, convenience! Immediate availability of funds. Employees do not have to pay for expenses “up front” for their services and wait to get reimbursed.
- There are many instances where the participant does not need to submit receipts. These are typically flat dollar co-pays at doctor offices and most prescription medications.
- Increased participation means increased tax savings to the employee and to the employer.
- FlexBank handles most of the repayment issues for ineligible card use. If an expense is not eligible, the participant must write a check and “pay back” his health FSA. The employer is only involved when a card has been shut off and funds must be recouped through payroll withholding.

The Other News:

- There is an additional $1 charge per month for each participant.
- FlexBank is not able to reimburse participants if they walk in to our office for an on the spot reimbursement. However, if the employee submits the claim documentation in the morning, it will be available for pick-up by the end of the same business day.
- Bank reconciliation is slightly different as you will not see an entry on your bank statement for a single check; instead, a weekly total of all individual swipes for all participants is reported.
- Increased funding to the flex account is required. Employers must fund an additional 5% of the total annual amount elected by participants for potential claims so that funds are available for real time debit card purchases. The 5% is adjusted year to year based on elections.
- Documentation will still need to be submitted in some instances. The IRS requires paper documentation for all major medical, dental and vision expenses. The employee has a limited time frame (set by the IRS) in which to submit valid paperwork for their card usage. If the paperwork is not received in the allotted time frame, the employee’s debit card will be turned off and other measures must be used to recover the funds. Without supporting documentation, all card usage is assumed to be invalid and therefore must be repaid to the plan.

FlexBank attempts to obtain repayment from participants for ineligible or unsubstantiated expenses. If we are unable to do so, it is your responsibility to assist in the recovery. This is generally accomplished via payroll deduction. This can be a challenge if the employee has terminated employment.

Health FSA Grace Period

Under this provision, money unspent at the end of the plan year in the ***health FSA*** can now be rolled over into the next plan year for 2 months and 15 days (hereafter called 2-½ months). Thus, employees contribute for 12 months but essentially have 14-½ months to incur expenses and use up the remaining money.

For example, if an employee has $50 left in his health care Flexible Spending Account at the end of the plan year, he may incur expenses for the previous plan year through the 15th of the third month after the end of that plan year. For example, participants with calendar year plans that end on December 31 have through March 15th to incur expenses for the prior year funds.

The "run-out" period to submit claims for the previous plan year will remain unchanged at 90 days after the end of the plan year. There will not be an additional 90 days for claims incurred after the 2-½ month grace period.

The following is a brief question and answer describing how our software system accounts for claims balances for the Grace Period.

(Q) When receipts are submitted during the 2-½ month Grace Period, which FSA dollars will be used first for reimbursement, last plan year's or this plan year's?

(A) During the 2-½ month Grace Period:
Claims with dates of service from this plan year will be reimbursed from this plan year's election.
Claims with dates of service from last plan year will be reimbursed from last plan year's left to spend balance.

If, at the end of the 90 day run-out period, there is still an unused balance from last plan year, FlexBank's system will automatically apply claims incurred during the Grace Period to the last year's remaining balance, if applicable.

For example:
John is a participant in a calendar year FSA.
He has $50 left to spend on December 31st and has the additional 2-½ months to incur new expenses for his $50 balance.
He has elected $500 for the new plan year.

In January, John incurs and submits a $90 receipt for contact lenses. This $90 would be reimbursed from the $500 for the new plan year, leaving a balance of $410.

In February, John submits another claim for $20 doctor office copay incurred in December of last year. This amount would be reimbursed from the remaining unused balance from last year leaving an unused balance of $30. Further assume that John submits no other expenses during the Grace Period for expenses incurred in either plan year. Shortly after the close of the Grace Period, FlexBank's system will re-assign $30 of expenses incurred during this year to use up the remaining unused balance of $30 from last year. John's remaining unused balance from this year would then be increased from $410 to $440.

Flexible Spending Accounts

Health FSA $500 Carryover

This optional feature permits up to $500 of unused health FSA monies to carryover from year to year.

Here's how the $500 Health FSA Carryover Works.

During the first three months of the next plan year you will be in what is called the "run out" period for claims submission. During this time...

- Claims with dates of service from last plan year will be reimbursed from last year's unused amounts.
- Claims with dates of service from this plan year will be reimbursed from this year's elected amount.

The unused health FSA funds then carryover....

- At the end of the 90-day run out period, if there is still an unused balance from last year, FlexBank's system will automatically carry forward up to $500 of unused health FSA funds to your new plan year.
- The funds carried forward do not count toward the maximum annual election as permitted by the IRS.

For example:
John is a participant in a calendar year health FSA. He has $50 left to spend on December 31, 2017. He has elected $1,000 for the new 2018 plan year.

In January 2018, John incurs and submits a $90 receipt for contact lenses. This $90 would be reimbursed from the $1,000 from the new plan year, leaving a balance of $910.

In February 2018, John submits another claim for a $20 doctor office co-pay incurred in December 2017 (last plan year). This amount would be reimbursed from the remaining unused balance of $50 from last year leaving an unused 2017 balance of $30.

After the 90 day run-out period ends, FlexBank's software will carry over John's unused $30 balance from 2017 (last plan year) to his new plan year. John's balance for the 2018 plan year would then be increased from $910 to $940.

HSA Implementation & How does it affect your FSA?

In addition to administering Flexible Spending Accounts, FlexBank also administers Health Savings Accounts (HSA). Contact us today to learn how we can help you make this benefit change one that your employees will understand and appreciate.

If you are implementing an HSA-eligible high deductible health plan in synch with your FSA plan year (for example, your health insurance effective date is January 1 and your FSA plan year begins January 1), there are a few things to take into consideration during this open enrollment period.

HSA-Eligible

You must have coverage under an HSA-qualified "high deductible health plan" (HDHP) to open and contribute to an HSA. Generally, this is health insurance that does not cover first dollar medical expenses; all medical expenses must be applied toward the deductible (including prescriptions, doctor office visits, etc.). The IRS sets the minimum deductible required to be an HSA-eligible health plan. However, plans can pay for "preventive care" services on a first-dollar basis (with or without a copay).

Flexible Spending Accounts

In order for an individual to contribute on a tax-favored basis to an HSA ("HSA-eligible"), he/she must have HSA-eligible insurance coverage (as discussed above) and no other first dollar health insurance.

Update Section 125 Plan Documents

If you are planning to permit your employees to contribute to the health savings account on a pre-tax basis, the IRS requires that you update your Section 125 documents to include language permitting such a pre-tax contribution. FlexBank offers this service for a fee of $350.

Limited FSA

When one of your employees chooses to contribute to an HSA, the employee may continue participation in the FSA on a LIMITED basis for reimbursement of vision, dental and post-deductible expenses only.

The employee may not participate in a general-purpose health Flexible Spending Account (medical, vision, dental) and remain HSA-eligible. Participation in a spouse's general purpose health FSA will also render the individual as HSA-ineligible. When we update Section 125 documents to include HSA language, we automatically add the limited FSA feature.

Grace Period

The following rules only pertain if your company elected to offer the Grace Period (additional 2.5 months to incur expenses to spend down money contributed last plan year). For those employees interested in choosing a high deductible health plan and contributing to a health savings account, they must have a zero balance in their general purpose health FSA (medical, vision, dental expenses for the entire family) in order to be HSA-eligible as of your health insurance effective date/last day of FSA plan year. Zero balance means that they must submit all eligible receipts and cash out their FSA by the last day of the plan year.

If the FSA participant does not have a zero balance in their general purpose health FSA, the employee would then be HSA-eligible the first of the month following the end of the Grace Period.

Please note, employees participating in a "limited purpose" health FSA (dental, vision and post-deductible) do not need to have a zero balance by the last day of the plan year. The rule above only affects those in the general-purpose health FSA.

$500 Health FSA Carryover

The following rules only pertain if your company elected to offer the $500 health FSA carryover whereby employees may carry forward up to $500 of unused health FSA monies from year to year.

For those employees enrolled in a general purpose health FSA, who are interested in choosing a high deductible health plan (HDHP) and opening a health savings account (or if their spouse is enrolling in an HDHP/HSA), they must either:

1. Have a zero balance in their general purpose health FSA (medical, vision, dental expenses for the entire family) in order to be HSA-eligible as of your health insurance effective date/last day of FSA plan year. Zero balance means that they must submit all eligible receipts and cash out their FSA by the last day of the plan year, or
2. Elect, prior to year end, to convert their general purpose health FSA to a limited purpose FSA (if offered by the employer), or
3. Elect, prior to year end, to forfeit all carryover monies.

Please Note: If the FSA participant does not elect any of the above options and carries forward general purpose health FSA dollars in to the new plan year, the employee would then be **HSA-ineligible** through the entire new plan year and not permitted to make HSA contributions during that time.

HSA Implementation – Part II: Implementation Other Than at FSA Reenrollment

Introducing an HDHP and HSA mid-year is problematic when a general purpose health FSA is already in place. IRS officials have informally indicated that introducing an HDHP and HSA option mid-year is not a good idea for two main reasons.

1. A mid-year implementation of an HDHP and HSA benefit is not an event that allow employees to change their health FSA elections. IRS Notice 2005-86, regarding HSA eligibility during a health FSA grace period, strongly suggests that it would not be permissible to allow employees to make prospective mid-year elections, on an individual basis, between a general-purpose health FSA and an HSA-compatible limited-purpose health FSA. In addition, IRS officials have informally commented that it would not be permissible for the terms of an employee's health FSA election for the year to provide for an “automatic switch” from general-purpose to limited-purpose health FSA coverage in the event that the employee becomes covered by an HDHP during the year.

2. Furthermore, employees participating in the health FSA would be ineligible for HSA contributions until the end of the cafeteria plan year (or potentially for a longer period if a grace period or carryover is offered under the health FSA).

The employer would have the following options, each of which has its own drawbacks:

- *Offer the HDHP and HSA only to employees not participating in the health FSA.* This option may not be attractive if a large number of employees participate in the health FSA; for a small employer that is unable to offer multiple health coverage options, limiting HDHP participation in this way is not a viable option.
- *Terminate the health FSA for all participants.* Generally, it is unwise to terminate a health FSA mid-year and employers must be careful to follow ERISA's requirements in doing so.
  The use-or-lose rule will result in all unused amounts being forfeited at termination, which will not be well received by employees and could even subject the employer to claims that benefits were cut back impermissibly (i.e. without adequate disclosure to employees that this was a possibility).
- *Convert the health FSA into a limited-purpose health FSA.* This type of coverage change will prevent all participants from accessing their health FSA funds for anything other than dental, vision, and post deductible expenses for the remainder of the plan year. Participants will not be allowed to change their existing salary reduction elections; which means that many participants may not have sufficient allowable expenses to exhaust their health FSA funds. IRS guidance regarding HSA eligibility during a health FSA grace period allows employers to use this approach to prevent the grace period from interfering with health FSA participants' HSA eligibility. Mid-year implementation of such a change might raise some of the same employee-relations issues that a mid-year plan termination would.

In addition to administering Flexible Spending Accounts, FlexBank also administers Health Savings Accounts (HSA). Contact us today to learn how we can help you make this benefit change one that your employees will understand and appreciate.

Health FSAs as "Excepted Benefits"

If any of the following are features of your current FSA, you must contact FlexBank now as your plan is not considered "excepted" and is not legally permitted.

1. The waiting period for the FSA is more liberal than for the major medical plan
(i.e. employee may participate in the FSA as of date of hire; the group health plan has a 60 day waiting period); and/or

2. The criteria for participating in the major medical plan is different than for the FSA
(i.e. part-time employees can participate in the FSA, but not in the medical plan); and/or

3. The employer does not offer a group health plan. Please note, this does not mean the employee must be covered by the group health plan in order to participate in the health FSA, it simply means the employer must offer a group health plan in order to also sponsor a health FSA for out-of-pocket medical expenses. If the employer does not offer a group health plan, the employer can offer a health FSA for dental, vision and work-related dependent care expense reimbursement only.

Also, if the employer is contributing to employees' FSAs, there are rules to be considered to keep the benefit as "excepted". The next section of this brochure discusses these rules.

Next Steps

Please contact FlexBank if you fall into any of the categories that would render your FSA non-excepted so that we may assist in keeping your plan in compliance. The penalty for non-compliance is $100 per participant per day or other penalties under the Affordable Care Act.

Employer Contributions to a Health FSA

Some employers choose to contribute monies to employees' health flexible spending accounts. A few reasons might be:

- The employer only offers a high deductible health plan (HDHP) + health savings account (HSA) and there are some employees who are not eligible to make or receive HSA contributions and the employer wants to provide money to those employees.
- The employer may offer seed money to employees to encourage participation in the health FSA.
- The employer may elect to match employee health FSA contributions dollar for dollar to encourage employees to participate in the plan.
- The employer would like to provide additional compensation on a tax free basis to help pay for eligible medical expenses tax free.

If you currently offer or you are considering offering employer funding to a health FSA, here are a few things you should know.

- You are permitted to make unlimited employer contributions to a health FSA to only those enrolled on your group health plan (ie. for those ineligible to contribute to a health savings account). The same rules apply if you are making contributions for those enrolled in a group health plan elsewhere (ie. through a spouse's employer). The employer health FSA funding in either of these situations does not count toward the FSA maximum contribution (2018 IRS maximum is $2,650). This is called an "integrated" FSA. In order to be compliant with this integrated, non-excepted benefit, you must:
    - Obtain a written statement from the employee confirming group health coverage elsewhere and that the other group health plan provides minimum essential coverage/minimum value.
    - Must provide employees an FSA SBC

- Must provide employees a certificate of non-creditable coverage https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Downloads/ModelNonCreditableCoverageDisclosureNotice051711.pdf
- COBRA must be offered to all FSA participants even where claims exceed YTD deposits.

- If you want to make employer contributions to all employees eligible (not necessarily enrolled) for your group health plan (i.e all full time employees) regardless if they have group health insurance (ie. some may be enrolled in Medicare), the following rules apply.
  - If the employer contribution to a health FSA is **more than** $500 (other than a $1 for $1 match), you must offer employees "cashable flex credits". This means employees must be given the choice to 1) contribute these employer contributions tax-free into a health FSA, or 2) take the employer contributions in taxable wages.
  - Since "cashable flex credits" are technically treated as employee contributions (because the employee could take the funding in taxable wages) the amount does count toward the health FSA maximum annual contribution.
- Employers with 50 or more full time and full time equivalent employees are subject to the employer mandate (play or pay rules) under health care reform. This means you must offer full time employees quality/affordable health coverage or face a potential penalty. Employer contributions that can ***only*** be used to pay for health plan premiums or medical expenses (health FSA) reduce the amount employees have to pay for the employer's health plan which in turn makes the coverage more affordable for purposes of the employer mandate. On the other hand, cashable flex credits have to be excluded when determining the employee's cost of coverage under the employer's health plan for purposes of the affordability calculation because the employees can elect to receive the cashable flex credit in cash. Offering cashable flex credits can be a downside if you are concerned about offering affordable coverage. As always, we encourage you to work with your health insurance broker to determine the strategy that makes the most sense to your situation.

Plan Termination

Terminating the Section 125 Plan and/or Plan Features

As the plan sponsor, the employer reserves the right to terminate the entire Section 125 Plan or features of The Plan at anytime. However, the regulations require your plan document to be amended and employees be notified. FlexBank can provide you with a formal termination amendment for a fee of $150. If you decide to keep the premium only portion of the Section 125 Plan, you may choose to have your document fully restated at a cost of $300 to remove any mention of the spending accounts.
If you are terminating the Flexible Spending Accounts, the decision will need to be made on a run out period for claims to be paid beyond the date the plan ends. FlexBank will continue to bill you at your current billing rate until the run-out period ends.

Terminating FlexBank Services

FlexBank requires a written notice within thirty (30) days when terminating our services.