



May 28, 2020

The Honorable Brad Wenstrup
2419 Rayburn House Office Building
Washington D.C. 20515

The Honorable Mike Kelly
1707 Longworth House Office Building
Washington D.C. 20515

The Honorable Cindy Axne
330 Cannon House Office Building
Washington D.C. 20515

Dear Congressman Wenstrup, Congresswoman Axne, and Congressman Kelly:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write in support of your recent legislation, the Family Savings Flexibility Act, which offers flexibility for owners of health and dependent care flexible spending accounts (FSAs). Your bill would help tens of millions of Americans who could be facing uncertainty and financial hardship during the COVID-19 pandemic, by allowing more generous rollovers for unspent FSA dollars from 2020 to 2021 and by increasing outdated contribution caps for both DCFSA and Health Savings Accounts (HSAs).

According to recent data from the Bureau of Labor Statistics (BLS), 45 percent of American workers have access to a health care FSA and 42 percent have access to a dependent care FSA (DCFSA).¹ Most workers decide before the beginning of a plan year how much they will contribute tax-free to an FSA, but the Internal Revenue Service (IRS) has acknowledged that "unanticipated changes in the need for medical care" due to the COVID-19 public health emergency have impacted the ability for FSA holders to use those pre-tax dollars.² This includes a widespread cancellation of elective health procedures.³ Unanticipated changes in the need for dependent care will impact DCFSA holders as well. For example, summer camps around the country are being canceled due to the uncertainty surrounding COVID-19.⁴

Two defining features of FSAs will complicate the situations facing account holders and their families this year. One is the strict limitations on mid-year election changes for FSA holders.⁵ Another is the limit on rolling over unspent FSA dollars from one year to the next. Under current law, health FSA holders are limited to a \$500

¹ U.S. Bureau of Labor Statistics. (September 2019). "National Compensation Survey: Employee Benefits in the United States, March 2019." Retrieved from: <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf#page=151> (Accessed May 27, 2020.)

² Internal Revenue Service. (May 2020). "COVID-19 Guidance Under § 125 Cafeteria Plans and Related to High Deductible Health Plans" (Notice 2020-29). Retrieved from: <https://www.irs.gov/pub/irs-drop/n-20-29.pdf> (Accessed May 27, 2020.)

³ Oliver, Eric. "35 states canceling elective procedures." *Becker's ASC Review*, April 10, 2020. Retrieved from: <https://www.beckersasc.com/asc-transactions-and-valuation-issues/35-states-canceling-elective-procedures.html> (Accessed May 27, 2020.)

⁴ Breen, Kerry. "COVID-19 is canceling summer camps, and families are upset." *Today*, May 4, 2020. Retrieved from: <https://www.today.com/parents/covid-19-canceling-summer-camp-families-are-sad-t180734> (Accessed May 27, 2020.)

⁵ Internal Revenue Service. (May 2020). "COVID-19 Guidance Under § 125 Cafeteria Plans and Related to High Deductible Health Plans" (Notice 2020-29). Retrieved from: <https://www.irs.gov/pub/irs-drop/n-20-29.pdf> (Accessed May 27, 2020.)

rollover.⁶ Though the IRS recently increased this rollover limit from \$500 to \$550,⁷ FSA holders still face losing hundreds of dollars in unspent funds at the end of their current plan year.

The IRS recently offered some flexibility for employers and workers on mid-year election changes, and this was a welcome change. Your legislation would provide even more support for FSA holders. The Family Savings Flexibility Act would allow health FSA or DCFSA holders to roll over any unspent amounts from the 2020 plan year to the 2021 plan year. We also applaud your increase in the maximum HSA contribution limit, from \$3,500 for individual coverage and \$7,000 for family coverage to \$6,900 for individual coverage and \$13,800 for family coverage.⁸

FSAs and HSAs are excellent benefits that put workers and their families in charge of tax-free dollars to direct towards essential health and dependent care needs. With everything from elective health care procedures to child care services thrown into doubt by the COVID-19 pandemic, these account holders need flexibility and support from policymakers. Your legislation would go a long way to providing some certainty and relief for millions of workers, and we stand ready to assist you in ensuring that this bill is passed into law.

Sincerely,

Andrew Lautz
Policy and Government Affairs Manager

⁶ Internal Revenue Service. (January 2020). "Publication 15-B (2020), Employer's Tax Guide to Fringe Benefits." Retrieved from: <https://www.irs.gov/publications/p15b> (Accessed May 27, 2020.)

⁷ Internal Revenue Service. (May 2020). "COVID-19 Guidance Under § 125 Cafeteria Plans and Related to High Deductible Health Plans" (Notice 2020-29). Retrieved from: <https://www.irs.gov/pub/irs-drop/n-20-29.pdf> (Accessed May 27, 2020.)

⁸ Brad Wenstrup. (May 22, 2020). "Wenstrup Leads Bipartisan Bill to Provide Flexibility for Family Savings and FSAs." Retrieved from: <https://wenstrup.house.gov/updates/documentsingle.aspx?DocumentID=404112> (Accessed May 27, 2020.)