



August 11, 2020

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

The Honorable Troy Balderson
1221 Longworth House Office Building
Washington, D.C. 20515

Dear Congresswoman Axne and Congressman Balderson:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write to express our support for the COVID-19 Health and Dependent Care Flexible Spending Account Distribution Act. At a time when numerous workers and families are at risk of losing up to thousands of dollars from their health and dependent care flexible spending accounts (FSAs), your bill could save many taxpayers a lot of time, money, and stress.

In May, *The New York Times* reported succinctly on the uncertainty facing dependent care FSA holders due to COVID-19:

...“now your day care is closed, and there may not be summer camp. You have locked away four figures of money that you may not be able to get back, since if you don't use it before the end of the year, you lose it entirely and your employer gets to keep it.

In the broad scheme of things — a pandemic, tens of millions of people with no job at all — it may not seem like a big thing. But there are an estimated 5.2 million dependent care accounts, according to the financial research firm Aite Group, and many of their holders have lost at least some income or have spouses who have.”¹

Due to the impact COVID-19 has had on summer camps and child care, dependent care FSA holders could face a loss of income as large as \$5,000. Health FSA holders, who have suffered from delayed or canceled elective procedures, face a loss of up to \$2,750.² The Internal Revenue Service (IRS) has already provided some relief for FSA holders, by telling employers they can allow employees with FSAs to make mid-year election changes. Representatives in Congress have also committed to offering FSA holders some relief, with legislation that would allow for one-time rollovers of FSA account balances from plan year 2020 to plan year 2021.³

¹ Lieber, Ron. “There's Money Stuck in Your Dependent Care Account. Now What?” *The New York Times*, May 9, 2020. Retrieved from: <https://www.nytimes.com/2020/05/09/your-money/dependent-care-account-coronavirus.html?searchResultPosition=5> (Accessed July 22, 2020.)

² Internal Revenue Service. (November 15, 2019). “IRS: Eligible employees can use tax-free dollars for medical expenses.” IR-2019-184. Retrieved from: <https://www.irs.gov/newsroom/irs-eligible-employees-can-use-tax-free-dollars-for-medical-expenses>

³ Lautz, Andrew. “Bipartisan Bill Would Provide Needed FSA Flexibility for Millions.” National Taxpayers Union, May 28, 2020. Retrieved from: <https://www.ntu.org/publications/detail/bipartisan-bill-would-provide-needed-fsa-flexibility-for-millions>

Your legislation would build on these efforts in important ways. By allowing FSA holders to make a one-time distribution from the unused balance in their FSA, your bill could put thousands of dollars back into families' pockets at a time when they most need the surplus income. The bill also includes an important guard against abuse of this relief measure, by ensuring any one-time distributions are taxed as ordinary income.

We applaud your effort to provide millions of Americans with FSA relief and flexibility in a time of considerable uncertainty for workers and parents everywhere. Thank you for introducing the COVID-19 Health and Dependent Care Flexible Spending Account Distribution Act. We look forward to working with you to ensure it reaches the President's desk.

Sincerely,

Andrew Lautz
Policy and Government Affairs Manager