MURRAY GROUP

Group Benefits
Consolidated Appropriations Act

December 2020

Overview of Consolidated Appropriations Act

IN THIS ISSUE:

Temporary Relief for FSAs:

On Dec. 27, 2020, President Trump signed the [Consolidated Appropriations Act]() of 2021 into law. The Act provides temporary special rules for health and dependent care flexible spending accounts (FSAs) that give employees additional time to use these funds.

The relief actions are new and complex, making it likely that the IRS will, at some point, issue more interpretive guidance. We encourage employers to consult with their legal counsel and third-party administrator for conclusive guidance on how the relief will work for their specific FSA plan(s). Here is a summary of the optional provisions:

Extended Periods for Unused Funds
For plan years ending in 2020 and 2021, the Act allows employers to:

- Permit employees to carry over unused amounts remaining in these FSAs to the next plan year.
- Extend the grace period to 12 months after the end of such plan year.
- Permit employees who cease plan participation during 2020 or 2021 to continue to receive reimbursements from unused amounts through the end of the plan year in which their participation ended.

The Act also includes a special carry forward rule for dependent care FSAs where the dependent aged out during the pandemic. For purposes of determining dependent care assistance that may be paid or reimbursed, the maximum age is increased from 13 to 14 years of age.

Change in Election Amounts
Employees are also able to elect to prospectively modify the amount of their FSA contributions for plan years ending in 2021, even if they have not experienced a change in status. However, the applicable dollar limitations will continue to apply.

Continued on next page>>

Plan Amendments

A plan that includes a health FSA or DCFSA may amend their plan and the amendment may be retroactive, if (1) such amendment is adopted no later than the last day of the first calendar year beginning after the end of the plan year in which the amendment is effective, and (2) the plan or arrangement is operated consistent with the terms of such amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted. For example, employers adopting the unlimited carryover for a plan year ending December 31, 2020 have until December 31, 2021 to execute the plan amendment as long as they follow the terms of the change consistently prior to the amendment.

Stimulus Bill Extends FFCRA Tax Credits for Employers:

The Emergency Family and Medical Leave Expansion Act (EFMLA) and the Emergency Paid Sick Leave Act (EPSLA), were passed as part of the Families First Coronavirus Response Act (FFCRA), which also created tax credits for employers to cover certain costs of the employee leave required by the law; specifically: **employee wages**, **health plan expenses allocable to those wages, and the employer's portion of the Medicare tax related to the wages**.

The requirement for employee paid sick leave and expanded family and medical leave will end on Dec. 31, 2020, the original expiration date of the entitlement, but tax credits will apply to EFMLA and EPSLA leave, if offered by employers, through **March 31, 2021.**

The new law allows employers covered by the FFCRA (those with fewer than 500 employees) to extend the time they can offer EPSL or EFMLA to employees to March 31, 2021. If they do, then they can apply for the tax credits available under the FFCRA for leave granted under the extension. The law does not provide any additional leave for employees, just additional time during which employers may grant that leave if any is still available to the employee.

FFCRA TIMELINE:

- **March 18, 2020:** The FFCRA was passed, containing the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLA)
- **Dec. 31, 2020:** FFCRA's requirements for employee paid sick leave and paid family and medical leave expire.
- **March 31, 2021:** Employer tax credits apply for FFCRA leave taken through this date, if employer offers available leave between Dec. 31, 2020 – March 31, 2021.

No Surprises Act

The Consolidated Appropriations Act also includes the No Surprises Act, a ban on surprise medical bills, which will take effect beginning in 2022. The Act applies to surprise bills from doctors, hospitals and air ambulances. It prohibits these providers from billing patients who have health coverage for unpaid balances. Rather, providers will have to work with the group health plan or health insurance issuer to determine the appropriate amount to be paid by the plan or issuer, under the methodology provided in the Act. Surprise medical bills occur when patients unexpectedly receive care from out-of-network health care providers. For example, a patient may go to an in-network hospital for treatment, such as surgery or emergency care, but an out-of-network doctor may be involved in the patient's care.

Patients often cannot determine the network status of these providers during treatment in order to avoid the additional charges. In many cases, the patient is not involved in the choice of provider at all.

Price Transparency

The law encourages price transparency by prohibiting health plans and insurers from entering into agreements with providers that prohibit the provision of provider-specific cost or quality of care information; electronic access to de-identified claims and encounter information for each enrollee in a plan; or sharing of the above information/data with business associates in accordance with HIPAA standards.

The Dept. of Health and Human Services will work with the Depts. of Labor and the Treasury to issue regulations regarding this methodology and other requirements of the Act**. The provisions of the No Surprises Act apply to plan or policy years beginning on or after January 1, 2022.**

The Murray Group will continue to keep you updated as information becomes available on the details of the law.

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