Includes 2021 Relief Bills Updates

Impact of the CARES Act on your FSA, HSA, HRA and other services

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On March 27, 2020, the federal government passed and signed into law the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, that includes a wide-ranging set of emergency funds and relief provisions for businesses and individuals experiencing hardships as a result of the COVID-19 pandemic. Several of the provisions are related to the use of Healthcare Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs), and Health Reimbursement Arrangements (HRAs) to help individuals use these accounts to purchase needed health care items. The questions and answers below are intended to simplify the key points of the CARES Act for employers and participants as it relates to the use of their benefit accounts.

Where can I find an actual copy of the CARES Act?

A copy of the executed legislation can be found here:
https//www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf

What are the main impacts of the CARES Act on healthcare-related benefits?

The CARES Act expands and broadens the use of FSAs/HSAs/HRAs for certain types of healthcare products and services, including:

- **The inclusion of additional over-the-counter (OTC) items as qualified medical expenses, specifically menstrual care products.** This change affects any purchases made after December 31, 2019 and is a permanent change to the list of eligible expense terms that can be purchased with FSA/HSA/HRA funds.
- **Relaxation of the rules related to purchases of over-the-counter (OTC) medications**, so that items such as non-prescription cold medications, antihistamines, antacids, and anti-inflammatories, and other items can now be purchased with FSA/HSA/HRA funds. The CARES act essentially reverses the impact of the 2010 Affordable Care Act provisions which restricted the use of FSAs and HSAs to the purchase of prescription medications.
- **Telehealth services (consultation with a qualified medical provider by phone or video conference) are now fully covered items** under insurance policies and are not subject to deductibles.

There are many other health-related provisions in the CARES Act that address COVID-related testing and treatment, expansion of Medicare for certain medical treatments and products, durable medical equipment, but the above are the most significant for current FSA/HRA/HSA account holders.

What do employers need to do to take advantage of the CARES Act provisions?

The new OTC provisions of the CARES Act are effective immediately and require no action on the part of employers, unless your FSA/HSA/HRA plan documents include specific language that excludes OTC items or requires a prescription for OTC purchases (this is a rare exception, as most plan documents allow expenses under Section 213(d) of the tax code which has been broadened and amended by the CARES Act). Employers should consult their plan documents and their legal counsel or benefits advisors if they have questions or concerns on this topic.

I am an existing FSA/HSA/HRA participant. What can I do to take advantage of the CARES Act?

Unless specifically prohibited by your employer, most participants can use their existing FSA/HSA/HRA funds to purchase newly-eligible OTC items immediately. The OTC provisions in the CARES Act affect any purchases made after December 31, 2019. If you purchased newly-eligible items since January 1, you can file a claim for reimbursement as you would for all other eligible expense items.

If you use a Navia Benefits Card, please note that most retail and online stores need to modify their inventory systems to mark OTC terms as eligible expenses under the new laws before your card will be accepted for these items. It may take 6-8 weeks before most stores and online providers make the necessary changes, and your transaction may be declined during checkout if you attempt to make OTC purchases with your Navia card during this time. You can still purchase these items using an alternative form of payment and submit the expenses for reimbursement until the retail systems are updated.

I am not enrolled in an FSA/HSA/HRA plan, or I am an existing FSA/HRA/HSA participant and want to increase the amount of money available in my account so that I can purchase the newly-eligible healthcare items. Can I do this?

Most FSA and HRA benefit plans require you to enroll on an annual basis during your employer's open enrollment period. After the normal open enrollment period is closed, employees must wait until the next plan year to enroll or make changes to the amount that they are contributing to their accounts. However, with the 2021 Appropriations Act made it possible to elect an FSA and make changes to your election amount at any time during the year through 2022. You can make changes without a qualifying status change event such as the birth of a child, getting married, or losing your health coverage. Please consult with your HR representative or your benefit plan information for specific guidance.

If you are covered by a qualified high-deductible health plan (HDHP), you can open a new HSA or change the amount that you are contributing to an HSA at any time. Please consult your HR representative or your plan information to determine how you can open a new account or increase your HSA contribution.

How do the Telehealth provisions of the CARES Act impact me and my company?

The changes in the CARES Act allow medical consultations, advice, and referred services that you receive from a medical provider via phone or videoconference to be fully covered under your insurance plan, under the same terms as if you were visiting the provider in person. Telehealth services are no longer subject to insurance plan deductibles, making it easier for employers to offer telehealth services under their existing insurance plans. Navia can assist companies with general questions related to telehealth and offers a telehealth service for companies that currently do not have one in place; please contact us if you need further information.