# **Advanced Cafeteria Plans Q&A –** the following questions were asked during the two webinar sessions in May, 2018

**Q: Employee is termed and not overspent. If they elect COBRA, can they pre-pay the balance due for the plan year or must they make monthly contributions through COBRA?**

A: An employee may choose to pre-pay the balance due for the plan year, but they must be offered the opportunity to make monthly contributions through COBRA. If the employer's cafeteria plan allows for it, the employee could make those COBRA premiums pre-tax through the last payroll upon request.

**Q: What do you mean by self-employed cannot participate in a cafeteria plan? What if a spouse is participating and they are self-employed?**

A: An individual who is not an employee of the organization sponsoring the cafeteria plan cannot participate in that cafeteria plan. Therefore, an individual who has ownership in that organization and, based on the tax-filing status of that organization and the individual's ownership percentage, is considered to be self-employed and not an employee of that organization may not participate in that organization's cafeteria plan.

**Q: Can you contribute to a medical FSA and an HSA in the same calendar year if your employer's health plan runs 4/1/17-3/31/18 and you switch from a copay plan to a HDHP at open enrollment?**

A: You may contribute to an HSA so long as you have no disqualifying coverage on the first day of the month and meet the other qualifications to make HSA contributions.

If your Health Care FSA is on the same plan year as your health plan, then the individual would be able to have a standard health FSA from 4/1/2017-3/31/2018 and then waive the standard health FSA at open enrollment. This would mean that if the plan did not have grace period or rollover, the individual could contribute to an HSA on 4/1/2018. If the plan did have grace period and the individual had a balance on 3/31/2018, that individual could contribute to an HSA on the first of the month following the grace period. If the plan had rollover and the individual ended up having a standard health FSA due to rollover, that individual could contribute to an HSA on the first of the month following the runout period if



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they were able to submit enough expenses incurred between 4/1/2017-3/31/2018 to use up the entire standard health FSA balance.

If your Health Care FSA, however, is on a calendar plan year, and that individual made a standard health FSA election for the 1/1/2018-12/31/2018 plan year, that individual would not be eligible to make HSA contributions even after they changed to a HDHP in April as they would have disqualifying coverage for the entire 2018 calendar year.

**Q: Grace period is different than the time frame allowed to submit a claim incurred at the end of the year correct?**

A: Correct. Grace period essentially extends the plan year, allowing additional time to incur expenses. Runout period is additional time after the plan year has ended to submit expenses that were incurred during the plan year.

**Q: Is coinsurance also a requirement for the HDHP HSA compatible plan or is it just the deductible amounts?**

A: An HDHP does not necessarily need to contain coinsurance, but if it does, then the coinsurance counts towards the out-of-pocket maximum. In order for the HDHP to qualify, the out-of-pocket maximum cannot exceed the regulatory threshold. HDHP minimum deductibles for 2018 are $1,350 for single coverage and $2,700 for family coverage. HDHP out-of-pocket maximums for 2018 (which may include coinsurance or other out of pocket expenses) are $6,650 for single coverage and $13,300 for family coverage.

**Q: Is there a penalty if we don't require proof of other coverage?**

A: If your organization is an ALE and provides cash-in-lieu of major medical insurance and does not require proof of minimum essential coverage, then you could be exposing yourself to ACA penalties if that individual were to obtain a subsidy on the Marketplace.



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**Q. Can rollover or grace period Health Care FSA funds be moved to a limited health FSA at the beginning of a plan year if the employee moves into a HDHP at open enrollment?**

A. There are regulatory provisions that indicate this is an allowable plan design to have when your plan has rollover so long as it is spelled out in the Plan Document and SPD. While there are no similar regulatory provisions indicating this is allowable for grace period, it is possible that it is permitted so long as it is described in detail in the Plan Document and SPD.



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