



In the coming weeks you may receive questions from employees on whether or not they can change their pre-tax elections based on how their day to day lives are being affected. The IRS has not issued any additional guidance regarding changes in status and the COVID 19 situation. You can access a quick reference guide to changes in status by [Clicking Here](#).

We would like to take this opportunity to specifically address medical and dependent care FSAs. We have put together a quick Q&A based on questions our clients and participants have had this week.

**Q.** My daycare shut down; can I change my dependent care election?

**A.** Yes. If you no longer require daycare services, you can revoke your election on a prospective basis.

**Q.** My daycare shut down and now one of my family members is going to watch my child, can I still be in the plan?

**A.** That depends; if the funds received for babysitting services by family members are claimed on the babysitter's tax return, the expense is eligible. The exception to this rule is you may not participate in the dependent care FSA if you are paying another one of your children who is under 19 at the end of the calendar year or any other person for whom the employee could claim a tax dependent deduction. We encourage you to have this discussion with your babysitter ahead of time to be sure they will in fact claim the funds you are giving them on their tax return as income at the end of the year.

**Q.** My spouse is no longer working but she expects to go back to work soon. We don't want to lose our spot at the daycare, can I still participate?

**A.** No, the IRS specifically set up the tax-free dependent care account so that working parents could work. If you and your spouse are not gainfully employed, seeking gainful employment, or a full-time student, you cannot participate in the plan.

**Q.** With people being laid off due to COVID-19, how does their FSA account work?

**A.** When someone is laid off and they are terminated from employment, they are permitted to withdraw up to their full annual health FSA election regardless of year to date deposits as long as their dates of service are incurred during the plan year and through the date of termination. Terminated employees have up to 90 days after the end of the plan year to submit eligible expenses for reimbursement. At the time of termination, if the employees year to date deposits exceed year to date claims, they must be offered health FSA COBRA continuation for their FSA.

**Q.** Can an employee stop FSA deductions if they get a pay cut because of COVID-19?

**A.** Unfortunately, the IRS only permits employees to change their health FSA based on a qualifying event and a reduction in pay is not one of them.

**Q.** I put the maximum amount in my medical FSA for dental work I was planning on having done. Now my dentist shut down. Can I change my election?

**A.** No, the inability to have a service performed is not a recognized change of status by the IRS. As of the date of this memo, the IRS has not issued any guidance on relief for this type of situation.

If an employee experiences a change in status their election can be changed on a prospective basis. Simply have the employee complete the [Change of Status Form](#) from our website, adjust the employee's withholdings in your payroll system, and send the completed form to your FlexBank account manager. We will make the change on our end and confirm with you when the employee's account has been updated.

Let your account manager know if you have questions. We are here to help.