

2019 FSA Claims Submission Deadlines Suspended

May 14, 2020

Many employer-sponsored flexible spending arrangements (“**FSA**s”) have a claims submission deadline in March 2020 for the 2019 plan year. Some FSA vendors have contacted employers about extending those claims submission deadlines to later in the summer because participants could be delayed in submitting claims due to the COVID-19 pandemic. Generally, claims submission deadlines are set by plan design and are not regulated. However, the U.S. Departments of Labor and Treasury recently issued a notice suspending the deadline for submitting claims under all employee welfare benefit plans and employee pension benefit plans. The time period from March 1, 2020 until 60 days after the end of the national emergency or other date announced by the government (“**Outbreak Period**”) is disregarded in determining whether the deadline to submit a claim was met. The notice did not specifically address how the suspended deadlines are supposed to work for FSAs. Arguably, if the deadline to submit FSA claims is normally March 31, as is common, then a participant would have 60 days after the end of the Outbreak Period plus 31 days (to account for March 1 to March 31) to submit FSA claims incurred in 2019. Employers who may have previously decided to extend the claims submission deadline into the summer may want to hold off on communicating any such extension, since it appears the deadline could now be much longer than that. The DOL has yet to address what type of communication must be made to participants regarding these extended deadlines.