

# Year End Reminders for 2021



***With open enrollment behind us and the vaccine mandates and new plan year in our sights, it's time to wrap up any loose ends. So here's a to-do list we encourage you to check twice to make sure everything's tied up nicely with a bow. This is not intended to be an exhaustive list but hopefully helps you in this busy time.***

- Provide COBRA participants plan information**, noting they have outbreak period extensions to submit payments and have the same annual open enrollment opportunities to change their plan and dependent elections as active employees do.
- Ensure affordability** of your lowest-cost single plan providing minimum value for all full-time employees in order to avoid potential ACA penalties
  - Note the affordability percentage decreased from 9.83% in 2021 to 9.61% for 2022
- Prepare to provide accurate ACA reporting in January**
  - 2021 reporting due in early 2022 no longer has a good faith standard, so submitting inaccurate or incomplete reporting could result in penalties for failure to file correctly
  - Applicable large employers (ALEs) must complete the 1094-C/1095-C forms
  - Self-funded non-ALEs must complete the 1094-B/1095-B forms
- Amend documents with any COVID-19 relief measures** you adopted for 2020 (*and while you're at it, probably update for 2021 changes as well*)
  - Your wrap plan/SPD may need to be updated for:**
    - Any relaxed eligibility terms you offered due to layoffs/furloughs
    - Waived waiting periods for rehires after 13 weeks
    - Measurement periods that may have given "credit" for furloughs
    - Telehealth benefits which you may have expanded to all employees but in 2022 need to return to limiting to just those enrolled in your group health plan
    - Outbreak period extensions
  - Your health and dependent care FSAs may need to be updated for:**
    - Enhanced carryover or grace period benefits
      - Note even the standard \$500 health FSA carryover limit was first increased for plan years starting on/after January 1, 2020, to allow carrying \$550 into a future plan year, so even if you didn't adopt more generous COVID-19 flexibility, this change if adopted must be reflected in your 2020 document by the end of 2021 (*this can be automatically accomplished by simply pointing to the annually indexed limit under §125(i) in your plan*)
    - Health FSA spend down features (common for dependent care but made specially available for health FSAs under COVID-19 relief)
    - Expanded eligible health care expenses (PPE, menstrual products, and over-the-counter drugs/medicines without a prescription)
    - Expanded eligible dependent care expenses for those age 13
    - Increased 2021 \$10,500 dependent care limit (\$5,250 for married filing separately) and relaxed taxation of enhanced carryovers/grace periods
    - And of course, you may want to adopt the 2022 increased limits if they are not automatically increased by reference to statutory indexing
      - Your cafeteria plan document may need to be updated for allowing certain types of election changes without a qualifying event for health plans and health and dependent care FSAs
      - Your health plan may need to be updated with any dates you provided specialized coverage, such as waiving cost-sharing for telehealth visits as well as COVID-19 testing, vaccines, and treatments
        - Some required changes may also include the PrEP preventive care mandate, lowering pre-diabetes screening from age 40 to 35, removing blanket exclusions for gender-affirming care, any necessary updates to stay compliant with the MHPAEA, the various No Surprises Act and transparency measures, etc.
      - Your wellness plan with vaccine incentives
      - Your tuition reimbursement plan may need to be updated for allowing student loan repayments to be an eligible expense

## Year End Reminders for 2021 *(continued)*

- Help your flexible spending account (FSA) administrator with resolving unsubstantiated claims**
  - If your employees are not responding to requests for receipts to substantiate an FSA debit card transaction, then the FSA administrator may need your help reaching out to those employees to request valid receipts
  - If an employee won't submit proper substantiation, then they owe your plan a debt, which is the employer's responsibility to collect
- Run annual non-discrimination testing** as of the last day of the plan year
  - This includes cafeteria plan testing, self-funded plan testing (including health FSAs and HRAs), and daycare FSA testing
- Properly claim government credits** you qualify for and wish to claim, including but not limited to:
  - PPP loan forgiveness
  - FFCRA leave credits
  - ARPA COBRA credits
  - Employee retention credits (ERC)
  - Paid FMLA tax credits
- Comply with state law requirements** applicable to you, such as:
  - State individual mandate reporting
  - PBM and other claim reporting laws (newer ones include IL and WA but there are plenty more)
  - New state and local taxes (WA LTC payroll tax in 2022, CO paid leave tax in 2023, etc.)

**IMA will continue to monitor regulator guidance and offer meaningful, practical, timely information.**

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