



FURTHER<sup>SM</sup>

How the Consolidated Appropriations Act (CAA) of 2021 and Other Post-CARES Act Regulatory Changes Address the Impact of the Coronavirus

And What They Mean for Your Account Holders



Congress and the IRS have recently made several regulatory changes to address the continued impact of the COVID-19 virus. This white paper summarizes the significant updates for spending accounts since the announcement of the **Consolidated Appropriations Act (CAA) of 2021** on December 27, 2020\*.

These include:

- The **Consolidated Appropriations Act (CAA) of 2021**, passed December 2020, and clarified in 2021 with **IRS Notice 2021-15**: A \$2.3 trillion bill that combined \$900 billion in relief for the COVID-19 pandemic in the United States, with a \$1.4 trillion omnibus spending bill for the 2021 federal fiscal year.
- The **American Rescue Plan Act (ARPA) of 2021**, passed March 2021: A \$1.9 trillion bill passed to speed up the United States' recovery from the economic and health impacts of the coronavirus pandemic.
- The **DOL Notice 2020-29**, originally passed in 2020, and updated March 23, 2021 with **DOL Notice 2021-01**: The notices defined and clarified an "outbreak period" and its requirements for companies that provide health finance accounts.
- The **IRS Announcement 2021-07**, passed March 2021: Amounts paid for personal protective equipment (PPE) such as masks, hand sanitizer, and sanitizing wipes, if purchased for preventing the spread of the COVID-19 virus, now qualify as medical care expenses under § 213(d) of the Internal Revenue Code.
- The **IRS Notice 2021-26**, passed May 2021: Provides clarity regarding the taxation of DCAP benefits available in 2021 and 2022, due to either carryover of unused benefits or the extended claims period.

### Navigating this white paper

We've compiled the summary of regulatory changes above and broken these out by type of account to show how these bills and amendments impact specific health savings and spending accounts. Navigate to the product(s) you support to learn what the changes mean for your Further account holders\*\*.

To view this information from a change-first perspective, see our [infographic](#).

# Health Savings Accounts (HSAs)



## IRS Announcement 2021-07

Allows tax-favored treatment for **Personal Protective Equipment (PPE)**, such as masks, hand sanitizer, and sanitizing wipes, for preventing the spread of the COVID-19 virus, as amounts paid for medical care under § 213(d).

This means most PPE items can now be reimbursed from HSAs if purchased for preventing the spread of the COVID-19 virus. Members can see an updated **list of HSA-eligible expenses** on the Further Learning Center.

## The American Rescue Plan Act (ARPA) of 2021

The 2020 federal tax return filing deadline was extended from April 15, 2021 to May 17, 2021

Three states affected by the winter storms, Texas, Oklahoma, and Louisiana, were granted an additional extension on the 2020 federal tax return filing deadline to June 17, 2021.

This also applied to Form 1040 and allowed HSA holders to make HSA contributions for the 2020 tax year until the new date.

On March 29, 2021, an extension to June 30, 2021, was made to the filing date for 5498s.

# Flexible Spending Accounts (FSAs)

## The Consolidated Appropriations Act (CAA) of 2021

Provides the following plan-level options:

- Plans may permit an FSA to carry over all unused amounts from 2020 to 2021 and from 2021 to 2022.
- Plans may permit a 12-month grace period for unused FSA benefits for plan years ending in 2020 or 2021.
- Plans may allow medical FSA participants who terminate during the 2020 or 2021 plan year to spend down their unused balances for expenses incurred through the end of the plan year in which the termination occurred.
- Plans may allow a prospective change in election amounts for FSAs for plan years ending in 2021 without a corresponding change in status event.

This legislation is not mandatory; these are organizational-level choices. Companies can amend their plan document with the recent COVID-19 relief legislation until Dec. 31, 2022, for 2021 plan year changes.

Plans must adopt an amendment by the end of the first calendar year, beginning after the end of the plan year in which the amendment is effective, and must operate their plans following the amendment's terms beginning on its effective date.

### IRS Announcement 2021-07

Allows tax-favored treatment for **Personal Protective Equipment (PPE)**, such as masks, hand sanitizer, and sanitizing wipes, for preventing the spread of the COVID-19 virus, as amounts paid for medical care under § 213(d).

This means most PPE items can now be reimbursed from FSAs if purchased for preventing the spread of the COVID-19 virus. Members can see an updated **list of FSA-eligible expenses** on the Further learning center.

### DOL Notice 2020-29

Announced tolling of certain required time periods during an "outbreak period" beginning March 1, 2020 and ending earlier than one year after the required action date (e.g., notice or claim filing) or 60 days after the National Emergency ends.

- Mandatory for ERISA-covered plans and "recommended" for government plans.
- Affects the claim filing (runout) period for FSAs and HRAs and extends COBRA election and contribution periods for FSAs and HRAs.

### DOL Notice 2021-01

Clarified the "outbreak period" definition mentioned in DOL Notice 2020-29 by renewing the Notice for another year given the continued National Emergency and notes the "outbreak period" would still end earlier than one year after the required action date or 60 days after the National Emergency ends.

### IRS Notice 2021-15

Clarifies the application of the Consolidated Appropriations Act (CAA) of 2021 to FSA plans, including permissible mid-year election changes and extended carryovers and grace periods.

Qualifies the "spend down" rule for medical FSAs.

Clarifies the allowed expenses for FSA plans. (Plans can provide for reimbursements of expenses for menstrual care products and over-the-counter drugs without prescriptions incurred for any period beginning on or after January 1, 2020.)

# Dependent Care Assistance Programs (DCAPs)

## The Consolidated Appropriations Act (CAA) of 2021

Provides the following plan-level options:

- Plans may permit a DCAP to carry over all unused amounts from 2020 to 2021 and from 2021 to 2022.
- Plans may permit a 12-month grace period for unused DCAP benefits for plan years ending in 2020 or 2021.
- Plans may allow DCAP participants who terminate during the 2020 or 2021 plan year to spend down their unused balances for expenses incurred through the end of the plan year in which the termination occurred.
- Plans may allow a prospective change in election amounts for DCAPs for plan years ending in 2021 without a corresponding change in status event.

This legislation is not mandatory; these are organizational-level choices. Companies can amend their plan document with the recent COVID-19 relief legislation until Dec. 31, 2022, for 2021 plan year changes.

## The American Rescue Plan Act (ARPA) of 2021

Increases the maximum amount that may be excluded from an employee's gross income in 2021 under a DCAP. This maximum increased from \$5,000 to \$10,500 for married parents filing taxes jointly or for single parents, and from \$2,500 to \$5,250 for married parents filing separately per calendar year.

These limits apply to the 2021 tax year only; non-calendar year plan participants should consider this when making annual elections.



## IRS Notice 2021-26

DCAP benefits that were available in 2021 and 2022 will be excluded from an employee's taxable income when they are used in those years. In addition, these amounts are considered when determining the temporary dollar limit increase on DCAP benefits in 2021.

## IRS Notice 2021-15

Clarifies the application of the Consolidated Appropriations Act (CAA) of 2021 to FSA plans, including permissible mid-year election changes and extended carryovers and grace periods.

Qualifies the "spend down" rule for medical FSAs.

Clarifies the allowed expenses for FSA plans. (Plans can provide for reimbursements of expenses for menstrual care products and over-the-counter drugs without prescriptions incurred for any period beginning on or after January 1, 2020.)



# Health Reimbursement Arrangements (HRAs)

## The Consolidated Appropriations Act (CAA) of 2021

Extends the end of the runout period by one year.

### IRS Announcement 2021-07

Allows tax-favored treatment for **Personal Protective Equipment (PPE)**, such as masks, hand sanitizer, and sanitizing wipes, for preventing the spread of the COVID-19 virus, as amounts paid for medical care under § 213(d).

This means most PPE items can now be reimbursed from HRAs if purchased for preventing the spread of the COVID-19 virus.

### DOL Notice 2020-29

Announced tolling of certain required time periods during an “outbreak period” beginning March 1, 2020 and ending earlier than one year after the required action date (e.g., notice or claim filing) or 60 days after the National Emergency ends.

### DOL Notice 2021-01

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- Mandatory for ERISA-covered plans and “recommended” for government plans.
- Affects the claim filing (runout) period for FSAs and HRAs and extends COBRA election and contribution periods for FSAs and HRAs.

### IRS Notice 2021-15

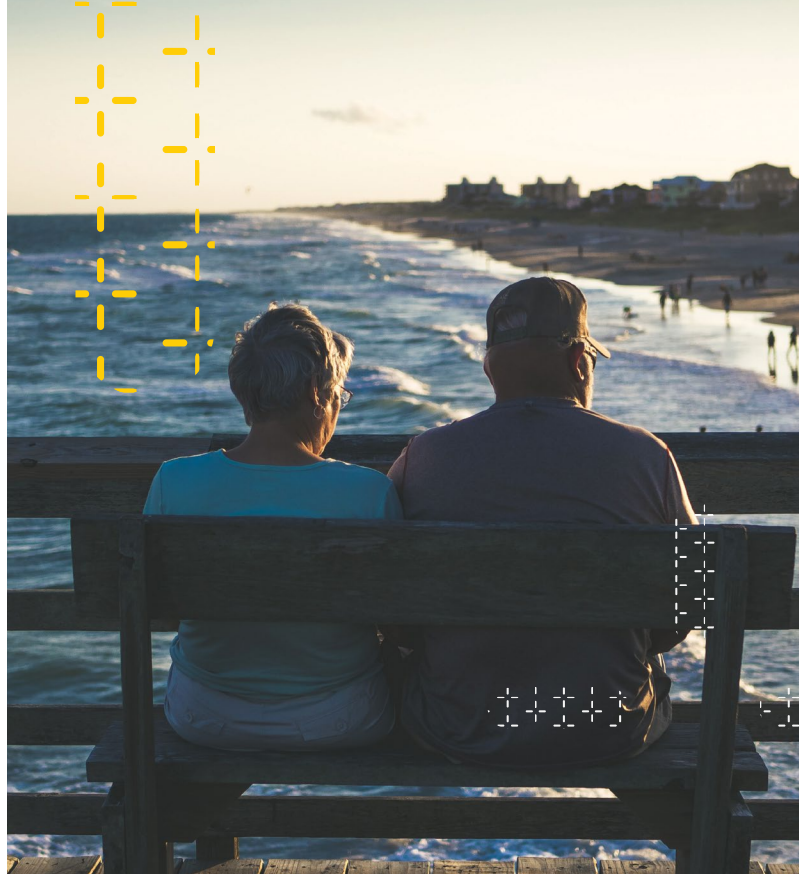
Clarifies the application of the Consolidated Appropriations Act (CAA) to HRA plans by clarifying the allowed expenses for HRA plans. (Plans can provide for reimbursements of expenses for menstrual care products and over-the-counter drugs without prescriptions incurred for any period beginning on or after January 1, 2020.)

# Voluntary Employee Beneficiary Associations (VEBAs)

## IRS Announcement 2021-07

Allows tax-favored treatment for **Personal Protective Equipment (PPE)**, such as masks, hand sanitizer, and sanitizing wipes, for preventing the spread of the COVID-19 virus, as amounts paid for medical care under § 213(d).

This means most PPE items can now be reimbursed from VEBA accounts if purchased for preventing the spread of the COVID-19 virus.



# COBRA Accounts

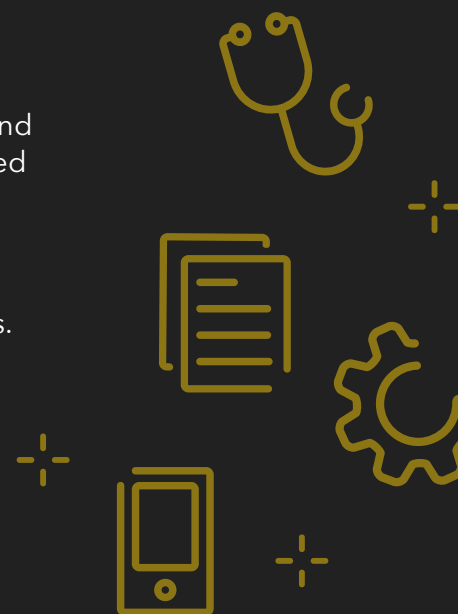
## DOL Notice 2020-29

Announced tolling of certain required time periods during an “outbreak period” beginning March 1, 2020 and ending earlier than one year after the required action date (e.g., notice or claim filing) or 60 days after the National Emergency ends.

## DOL Notice 2021-01

Clarified the “outbreak period” definition mentioned in DOL Notice 2020-29 by renewing the Notice for another year given the continued National Emergency and notes the “outbreak period” would still end earlier than one year after the required action date or 60 days after the National Emergency ends.

- Mandatory for ERISA-covered plans and “recommended” for government plans.
- Affects the claim filing (runout) period for FSAs and HRAs and extends COBRA election and contribution periods for FSAs and HRAs.



# Information for Further Groups and Members

## Submitting Expenses Online

For all the changes above, members can submit these expenses online at [hellofurther.com](https://hellofurther.com), or by calling Further Member Services at 1-800-859-2144, or via email at [CustomerSolutions@HelloFurther.com](mailto:CustomerSolutions@HelloFurther.com).

Members may receive a Claims Denied Explanation of Payment. If a claim was previously denied before this change, members can submit the expense as a new claim.

## Increasing Your DCAP Maximum Amount

If organizations would like to increase their DCAP maximum election amount for the 2021 tax year, they must complete our [2021 Dependent Care Assistance Program Annual Election Change Form](#).

## Submitting COVID-19 Plan Changes

The [COVID-19 Plan Changes form](#) allows groups to indicate which plan changes related to the COVID-19 relief bill they want applied to their 2020 and/or 2021 FSA or DCAP plans.

If a group has already submitted the form, but would like to change their plan amendments, they may contact Further Group Services at 1-888-460-4013.

## Revisiting Changes from the CARES Act of 2020

At the start of the coronavirus pandemic, we recognized the disruptions triggered by the COVID-19 virus would cause many of our members and employers to wonder how their spending accounts would be impacted. For a reminder of all the changes that came with the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act of 2020, Further prepared an FAQ page on our Learning Center for our members and groups. To view this, [click here](#).

\* This is not a comprehensive list of all bills and announcements that have been released since December 27, 2020, but rather a summary of what we feel are the most impactful bills and announcements based on the accounts we support.

\*\* The following are features of the guidance released since December 27, 2020, that are not supported by Further systems or processes and will not be offered to organizations: The ability to restrict FSA carryover to be limited purpose for HSA members; the ability to allow a member to waive FSA carryover; the ability to limit rollover amount by percent of balance; the ability to limit how long rollover dollars are to be available; the ability to elect to allow unused grace period funds to be used in a subsequent year; the ability for a mid-year election change to apply to claims incurred before the change date; the option for terminated members' FSA spenddown balance to be based on the account balance.

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