WageWorks®

COBRA and Health Care Spending Accounts

Is a Company's Health Care Spending Account (HCSA) a COBRA Eligible Benefit?

Yes, an employer's HCSA benefit is COBRA eligible. There are two primary distinctions when it comes to HCSA accounts; an excepted benefit and a non-excepted benefit.

If the HCSA is not an excepted benefit, then the plan will follow the general COBRA rules and regulations, including open enrollment privileges, and will follow the 18/29/36 month COBRA timeline.

If the plan is an excepted benefit, as most plans are, then the plan is subject to a limited COBRA obligation, extending elected continuation coverage through the remainder of the plan year in which the COBRA qualifying event occurred. An employer's HCSA is considered an excepted benefit subject to a limited COBRA obligation if:

- The maximum benefit payable does not exceed 2Xs the amount contributed by the employee, or if greater, the amount of the participants salary reduction for the year, plus $500
- The employer provides health insurance for the year to the HCSA participants; and
- The maximum annual COBRA premium for HCSA COBRA coverage equals or exceeds the annual HCSA coverage amount.

How is the HCSA premium calculated?

If the participant's HCSA is not overspent, and is eligible for COBRA continuation coverage, the HCSA premium is calculated based on the remaining annual election of the HCSA benefit. For example, the monthly premiums may be determined by dividing the remaining annual coverage limit by the number of months remaining in the plan year, on the date the COBRA coverage begins.

HCSA and COBRA Facts:

- **Does the HCSA Plan that is an excepted benefit have to offer the full 18/29/36 months of COBRA coverage?**

No, the maximum COBRA benefit for an HCSA plan that is an excepted benefit, and subject to the limited COBRA obligation, ends at the end of the plan year in which the qualifying event occurred

- **Does the 2% Admin Fee Apply to the HCSA COBRA premium?**

Yes

- **Can the employee pre-pay the entire annual COBRA premium from their last paycheck?**

Yes, this is an option; however, they cannot be required to do so.

- **If a participant's HCSA is overspent, is the participant eligible for COBRA continuation coverage?**

No, the employer is not required to offer COBRA to a participant when their account is overspent.

Qualifying Events: Divorce and child no longer an eligible dependent

A divorced spouse or a child who ceases to be an eligible dependent are eligible for COBRA continuation coverage under the HCSA, even though the employee is still active and continues to participate in the HCSA. According to ERISA, spouses and dependent children of covered employees can be a qualified beneficiary under COBRA if they are covered under the plan on the day before a qualifying event.

This means that in cases of divorce or when a child ceases to be an eligible dependent under the HCSA, they must be offered COBRA continuation coverage. The following approaches may be used to determine the actual COBRA benefit:

- The level of coverage in effect for the family unit at the time of the qualifying event, or
- The annual election amount, reduced only by the expenses of the spouse, or the expenses of the child, as applicable. It is important to note that the active employee will/can continue to participate in the HCSA.

What does this mean for WageWorks?

As part of the COBRA product WageWorks can administer the HCSA benefit. It is the client's responsibility to:

- Determine COBRA eligibility for the participant and ensure that the account is not overspent
- Determine the premium amount for the benefit
- Notify WageWorks of the participant's COBRA qualifying event

Once WageWorks is notified of the COBRA qualifying event from the client, we will send out the appropriate COBRA notices. If the participant elects the COBRA continuation coverage under the HCSA plan, WageWorks will report eligibility to the carrier(s) as applicable.

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