



**Rebecca Hudson**

Partner  
303.295.8005  
Denver  
[rhudson@hollandhart.com](mailto:rhudson@hollandhart.com)

## Working From Home Has Its Challenges...

**Publication — 03/30/2020**

**What's the Problem:** My daycare and commuting circumstances have changed and I would like to make changes to my cafeteria plan elections. Am I permitted to revoke or change my elections midyear?

**Answer:** At this time, you may be eligible to make changes to your Flexible Spending Account (FSA) elections. These pre-tax accounts are administered for commuter benefits (Qualified Parking and/or Qualified Transportation) and/or dependent care expenses.

- **Dependent Care Expenses:** Below are some questions and answers about your Dependent Care FSA and whether the disruptions caused by COVID-19 permit you to make changes to your existing elections.

**Question: My child's daycare center closed due to COVID-19, and I am now working from home. Can I decrease my dependent care FSA election amount as I do not need daycare services right now?**

Answer: Yes, if your expenses have decreased because your child's daycare center has closed, you can temporarily change or cancel your deferral.

**Question: My child's school is closed due to COVID-19. I now need to pay someone to watch my child in my home. Can I increase my dependent care FSA election?**

Answer: Yes, you may increase your election if your child being unable to attend school results in an increase in daycare expenses.

- **Commuter FSA:** You are always able to make changes to your Qualified Parking and/or Qualified Transportation election amount. IRS regulations permit you to increase or decrease your monthly election amount at any time, if you find that the amount you are contributing exceeds your spending. This includes for the time spent working from home during government-issued stay-at-home orders.
- **Note about the healthcare FSA and other benefit plans:** At this time, the IRS still requires a qualified change in status (e.g., birth, marriage, divorce, job change impacting coverage) before you can change your deferral election to a healthcare FSA. Your plan will have a deadline, often a 30-day window, to make qualified changes, and you must provide evidence of the reason for the change when you make the request. The same mid-year status change rules generally apply to other benefit elections, such as

coverage under a medical plan.

Employers should check their cafeteria plan document to confirm that midyear election changes are available under plan terms. If the cafeteria plan does not permit midyear changes, employers can consider amending the plan to provide eligible employees the opportunity to make changes to account for their changed circumstances. Once the employer confirms that these changes are permissible, the employer can communicate the employees' options.