

# Plan Amendment Guide COVID-19

Understand the amendments & download the ones you need

## Instructions

Each amendment includes: 1) a plan amendment, 2) a resolution, and 3) a summary of material modifications. Employers adopting these amendments must complete the first page, execute the resolution (depending on the employer's formalities), and distribute the last page (the summary of material modifications) to all plan participants.

**Employers adopting the new change in status rules, grace period extension, or the carryover increase/indexing must return a completed copy of the amendment to BPA by emailing it to [flex@bpaco.com](mailto:flex@bpaco.com).** Employers adopting any other amendments do not need to return copies to BPA, but may do so if they wish for us to retain a copy on the employer's behalf.

Amendment description	Guidance	*Download Amendments	Effective	Temporary or Permanent	Required or Optional	Retroactive	Why or why not adopt?
Change in Status for Employer Sponsored Health Coverage (GHP)	<a href="#">IRS Notice 2020-29</a>	<a href="#">DOWNLOAD PLAN AMENDMENT</a>	Effective for periods on or after January 1, 2020	Temporary for 2020	Employers can choose to adopt or not adopt.	Yes, can apply retroactively to January 1, 2020	Plans may see adverse selection. If the employer wants to allow changes to elections absent a change in status event it may want to adopt.
Change in Status for Health Care and Dependent Care FSA	<a href="#">IRS Notice 2020-29</a>	<a href="#">DOWNLOAD PLAN AMENDMENT</a>	Effective for periods on or after January 1, 2020	Temporary for 2020	Employers can choose to adopt or not adopt.	Yes, can apply retroactively to January 1, 2020	Plans may see adverse selection. However plans with a high amount of unused funds may adopt to reduce employee forfeitures. Employees may not reduce their elections below the amount already reimbursed.
Continuation of Grace Period for 2020 Calendar year for claims incurred through December 31, 2020	<a href="#">IRS Notice 2020-29</a>	<a href="#">DOWNLOAD PLAN AMENDMENT</a>	Applies to plans with GP or PY ending in 2020. Plans with GP and plans with CO may adopt	Temporary for 2020	Employers can choose to adopt or not adopt. If the employer wants extend the 2.5 month grace period to apply to all of 2020 then they must amend their plans.	Yes, can apply retroactively to January 1, 2020	If adopted could affect employees ability to make or receive HSA contributions for the duration of 2020 if the EE has an FSA balance after the PY ends.
Carryover increase for PY starting in 2020 up to 4550 and indexing ongoing	<a href="#">IRS Notice 2020-33</a>	<a href="#">DOWNLOAD PLAN AMENDMENT</a>	Applies to PY beginning on or after January 1, 2020	Permanent	Employers can choose to adopt or not adopt if they want the carryover increased and indexed.	Yes, can apply retroactively to January 1, 2020	Recommended for all plans with carryover and those without.
Over-the-counter ("OTC") permitted w/o Rx and Menstrual Care as reimbursable	<a href="#">Section 3702 of the CARES Act</a>	<a href="#">DOWNLOAD PLAN AMENDMENT</a>	PY beginning on or after January 1, 2020	Permanent	Employers should adopt to ensure Plan Document and Summary Plan description accurately reflect this change in the law.	Yes, can apply retroactively to January 1, 2020	Change in law, thus changes will be implemented regardless of plan amendment. Amendment serves to ensure PD/SPD conforms to new law and appropriate communications are provided to participants.
Healthcare FSA Claims Run-Out and Appeals Extension to after the "Outbreak Period"	<a href="#">29 CFR Parts 2560 and 2590</a>	<a href="#">DOWNLOAD PLAN AMENDMENT</a>	Effective as of the date of the amendment	Temporary based upon TBD end date of National Emergency	Employers should (but are not required) adopt to ensure Plan Document and Summary Plan description accurately reflect this change in the law.	Retroactive is not applicable. Should amend during the outbreak period and before the plan end date.	Change in law, thus changes will be implemented regardless of plan amendment. Amendment serves to ensure PD/SPD conforms to new law and appropriate communications are provided to participants.
Health Reimbursement Arrangement ("HRA") Claims Run-Out and Appeals Extension to after the "Outbreak Period"	<a href="#">29 CFR Parts 2560 and 2590</a>	<a href="#">DOWNLOAD PLAN AMENDMENT</a>	Effective as of the date of the amendment	Temporary based upon TBD end date of National Emergency	Employers should (but are not required) adopt to ensure Plan Document and Summary Plan description accurately reflect this change in the law.	Retroactive is not applicable. Should amend during the outbreak period and before the plan end date.	Change in law, thus changes will be implemented regardless of plan amendment. Amendment serves to ensure PD/SPD conforms to new law and appropriate communications are provided to participants.