

Consolidated Appropriations Act, 2021

Impacts and Key Takeaways



Late last year, Congress passed another COVID-19 relief bill, known as the **Consolidated Appropriations Act, 2021 (CAA)**, which was signed into law by former President Trump on December 27, 2020. This new piece of legislation was enacted to, among other things, extend several provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

We've put together the need-to-know CAA details to help you better understand which MidAmerica benefit plans are affected, what the new legislation means for participants, and the role plan sponsors play in implementing the updates.

Key Takeaways for Employers

Deadline for Opting Out of MidAmerica Amendment Defaults: February 26, 2021.

If you offer a plan with MidAmerica that is impacted by the CAA and **DO NOT** wish to permit the plan amendment defaults outlined on pages 3 and 5, you must contact us by February 26, 2021. Simply email our Account Management team at accountmanagement@myMidAmerica.com.

Handling of Participant Requests Prior to February 26, 2021.

If a participant should contact our offices inquiring about the CAA's impact to their account prior to February 26, 2021, and we have not yet received notification of the employer's intent regarding the plan amendments, we will advise that the plan amendments are still under employer review for final approval.

Impact to Flexible Spending Accounts and Dependent Care Accounts (Pages 2 & 3)

The CAA directly impacts FSAs and DCAs, mostly providing greater flexibility with regards to carryovers, grace periods, and election changes. For a full breakdown of the impacts and how MidAmerica is responding, see page 2.

Impact to Retirement Plans (Pages 4 & 5)

The CAA directly impacts Special Pay Plans, Employer Sponsored Plans, 3121 FICA Alternative Plans and APPLE plans by taking into consideration disaster relief, allowing additional distributions in the event of economic loss due to a "qualified disaster." For a full breakdown of the impacts and how MidAmerica is responding, see page 4.



New Rules for Medical FSAs and Dependent Care Accounts (DCAs)

The CAA provides employers with greater flexibility to grant their employees access to unused funds after the plan year ends, for both their medical flexible spending accounts (FSAs) and their dependent care accounts (DCAs), up to and including the 2022 plan year. Both program types will now have more freedom regarding:

The Carryover Rule

For plans that allow carryover of unused amounts into the new plan year, the previous cap of \$550 has been waived. Another distinction is the ability to apply the carryover rule to DCAs. Previously, DCAs could impose a grace period but not the carryover rule.

Grace Period

Prior to the CAA, the grace period—an extended period of coverage that allows participants extra time to incur expenses by allowing them to use their remaining FSA dollars after the close of the plan year—was permitted for only the first 2 ½ months of the new plan year. With the CAA, the grace period can be extended for a full twelve (12) months.

With the new legislation, the carryover rule and the grace period accomplish the same thing—the full amount of unused dollars at the close of the 2020 plan year can be used in the 2021 plan year. It's important to note that while both FSAs and DCAs can now apply the carryover rule or the grace period, only one is permitted. The plan cannot have both.

Unused Funds in 2022

Both the carryover rule and the grace period will continue to be applicable to plan years ending in 2021. That means any unused funds can be carried over into 2022, with no cap, OR available for a 12-month grace period in 2022, provided the employer has elected to apply either of these rules to the plan.

Change in Status

For plan years ending in 2021, employers may now permit employees to change their FSA or DCA elections at any time for any reason. This was previously allowed only if an employee had a change in status event. Now, employees may want to change (e.g., reduce or eliminate) their FSA elections for 2021 because they may have funds left over from 2020. Some employees may need to change their contribution elections simply because their unused 2020 funds plus their 2021 elections may put them above the [annual contribution limit](#). The annual contribution limits for FSA and DCA have not been affected by the CAA.

Post-Termination Reimbursements

Under the new law, if a plan is amended to allow it, employees who cease to participate in a health care FSA during 2020 or 2021 will be able to use their remaining balances through the end of the year in which participation ceased (plus any grace period) without having to opt for COBRA. Previously, employees who stopped participating in a health care FSA could only access their FSA remaining balances if the plan allowed for a run-off period or once they enrolled in COBRA.

For DCAs, employees who cease to participate may be allowed to continue filing dependent care claims for expenses incurred through the end of the year, if their plan is set up that way. This continues to be the practice under the CAA.

Dependent Care Carryforward

Participants enrolled in a DCA who have a child that turned age 13 in the 2020 plan year may now be reimbursed for expenses incurred after the child's 13th birthday for the remainder of the plan year. If there is an unused balance at plan year-end, they may be reimbursed in the following year until the child turns 14. Previously, dependent care expenses incurred after the child turned 13 were ineligible for reimbursement.

Health Savings Account (HSA) Coordination

It's important to note that the CAA has not changed how FSAs interact with Health Savings Account (HSA) eligibility. Employees who participated in a medical FSA for 2020 but who will be enrolling in a high deductible health plan with an HSA for the 2021 plan year will still be subject to the existing limitations imposed on their access to their prior medical FSA funds. To be clear, employees may not contribute to a Health Savings Account (HSA) while participating in a general-purpose medical FSA. [Internal Revenue Service \(IRS\) Publication 969](#) explains the HSA/FSA interaction rules. Employers will need to consider how the new FSA rules, if implemented, will affect an employee's eligibility for an HSA in 2021 or 2022.



Amendments for FSAs and DCAs

According to the CAA:

- **The new rules are not mandatory.**
Employers may opt to apply some, all, or none of the new rules.
- **Employers can choose to which plans they apply the rules.**
An employer may opt to apply a rule to both medical FSAs and DCAs, to medical FSAs but not DCAs, or to DCAs but not medical FSAs.
- **Employers can choose to which plan year to apply the rules.**
An employer can decide to apply the rules to the 2020 plan year but not the 2021 plan year, vice versa or to both years.

MidAmerica's FSA Plan Amendment Response



MidAmerica has thoroughly reviewed the CAA and, in the best interest of both the participant and the organization, have determined the following FSA and DCA plan amendments defaults. **If you currently provide an FSA or DCA and do not want the below defaults enabled for your plan, the employer must contact MidAmerica by February 26, 2021.**

MidAmerica will default to the following FSA/DCA CAA amendments:

- ✓ **The Carryover Rule.** If the FSA currently has a carryover in place, we will extend the carryover in accordance with the CAA. If the FSA currently does not have a carryover OR a grace period, we will add the carryover in accordance with the CAA.
- ✓ **Grace Period.** If the FSA currently has a grace period in place, we will extend the grace period in accordance with the CAA.
- ✓ **Change in Status.** MidAmerica will continue to accept election changes at any time for any reason.
- ✗ **Post-Termination Reimbursements.** MidAmerica will not implement this change unless requested by the employer.
- ✗ **Dependent Care Accounts.** MidAmerica will not implement grace periods or carryovers unless requested by the employer.
- ✗ **Dependent Care Carryforward.** MidAmerica will not implement the carryforward unless requested by the employer.

If an employer chooses to implement any of these optional provisions, they must operationally comply with them until they amend their plans to reflect the change(s). Amendments to FSA plans must be completed by the end of the first calendar year after the plan year in which the change is effective. For example, plan amendments for plan year 2020 must be adopted on or before December 31, 2021.



New Rules for Retirement Plans

Special Pay Plans, Employer Sponsored Plans, 3121 FICA Alternative Plans, APPLE Plans

The Consolidated Appropriations Act, 2021 (CAA) takes disaster relief into consideration and allows additional distributions from retirement plans for those who have experienced economic loss due to a “qualified disaster” (not COVID-related) and whose principal residence is located in a presidentially declared disaster area. A qualified disaster event must have taken place on or after December 28, 2019 and before December 27, 2020 (the date the CAA was signed into law). The event must have been declared a disaster between January 1, 2020 and February 25, 2021. Under the CAA, plans can be amended to provide additional distribution opportunities for individuals to receive withdrawals or loans if they were affected by such a declared disaster.

Disaster Withdrawals

Participants can receive a distribution of up to \$100,000 (or their vested account balance, if less) for disasters that began on or after December 28, 2019 and that ended on or before December 27, 2020. The distribution must be taken within 180 days of December 27, 2020 (that is, before June 25, 2021). If the participant is impacted by multiple disasters, this dollar limit applies separately to each disaster.

It’s important to note that disaster distributions are subject to a 10% early distribution penalty and are taxed equally over three (3) years unless the participant chooses to be taxed in the distribution year. The distributions may also be repaid within three (3) years of the distribution date.

Hardships

Participants may repay hardship distributions or first-time homebuyer distributions taken to purchase or construct a principal residence if:

- they received the distribution 180 days before the disaster or up to 30 days after the disaster period,
- the principal residence was in the disaster area, AND
- the participant did not use the distribution because of the disaster.

If taking advantage of this hardship relief, the participant must recontribute the hardship withdrawal during the period that begins on or after the first day of the incident period of a qualified disaster and before June 25, 2021.

Loans

The CAA also provides a contingency for participants whose principal place of residence at any time during the incident period is located in the qualified disaster area, and that participant has experienced an economic loss as a result of the qualified disaster. Such “qualified individuals” may be able to take loans for up to \$100,000 or their vested account balance, whichever is less. The increased loan limit is available to eligible participants from December 27, 2020 until June 25, 2021.

Additionally, under the new law, there is some relief for new and existing loans, permitting a delayed repayment for plan loans that are outstanding on or after the first day of the incident period of the disaster by one year (or if later, June 25, 2021), provided the payment is otherwise due within the period beginning on the first day of the disaster and ending June 25, 2021.



MidAmerica's Retirement Plan Amendment Response



MidAmerica has thoroughly reviewed the CAA and, in the best interest of both the participant and the organization, have determined the following retirement plan amendment defaults. **If you currently provide a Special Pay Plan, Employer Sponsored Plan, 3121 FICA Alternative Plan or APPLE Plan and do not want the below defaults enabled for your plan, the employer must contact MidAmerica by February 26, 2021.**

MidAmerica will default to the following retirement plan CAA amendments:



Disaster Withdrawals, Hardships and Loans. We will amend the plan to allow these additional provisions in accordance with the CAA.

The changes outlined in the CAA are not mandatory. However, if the plan sponsor of a governmental retirement plan wishes to incorporate any of the changes, the deadline to amend their plan is the last day of the first plan year beginning on or after January 1, 2024 (or December 31, 2024 for calendar year plans).



Have questions? We're here to help.

If you have questions about the CAA, its impact to your plan or the MidAmerica amendment defaults, don't hesitate to contact our Account Management team at accountmanagement@myMidAmerica.com.