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To:

Cc:

Subject: Health FSA Uniform Coverage Rules

As per your request, attached is my written response.

The cafeteria plan rules require that a health FSA provide uniform coverage throughout the coverage period (which is the period when the employee is covered by the plan). See Proposed Treasury Regulations Section 1.125-5(d). Under the uniform coverage rules, the maximum amount of reimbursement from a health FSA must be available at all times during the coverage period. This means that the employee's entire health FSA election is available from the first day of the plan year to reimburse qualified medical expenses incurred during the coverage period. The cafeteria plan may not, therefore, base its reimbursements to an employee on what that employee may have contributed up to any particular date, such as the date the employee is laid-off or terminated. Thus, if an employee's reimbursements from the health FSA exceed his contributions to the health FSA at the time of lay-off or termination, the employer cannot recoup the difference from the employee.