



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

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The Honorable Chris Van Hollen  
Member, U.S. House of Representatives  
51 Monroe Street, Suite 507  
Rockville, MD 20850

Attention:

Dear Representative Van Hollen:

I am responding to your inquiry dated July 15, 2016, on behalf of your constituent, [REDACTED], asked about the rules for submitting claims under a dependent care flexible spending arrangement (DCFSA).

[REDACTED] wrote that he participated in the DCFSA offered under his employer's cafeteria plan for the 2015 plan year. [REDACTED] explained that he erroneously submitted his 2015 plan year claims to the 2016 administrator. The 2016 plan administrator denied his claims because he was not a plan participant. Subsequently, the 2015 plan administrator denied [REDACTED] claims because he missed the deadline for timely filing the claims. The 2015 plan administrator told him that the IRS sets the deadline rules for claims submission. [REDACTED] asked for assistance in getting his expenses reimbursed.

Although the IRS requires a plan to reimburse only those expenses incurred during a coverage period, the IRS does not restrict the period for claim submissions. Neither the law nor the regulations address claim submissions. The time for submitting claims after the plan year has ended (often referred to as the "run-out" period) is strictly a matter of plan design. The employer decides, in the plan document, how long employees have to submit claims following the end of the plan year.

Plans may require that employees submit claims within a “reasonable time” after the close of the plan year. Plans may also establish a strict period after which they will not accept claims. This decision is solely within the employer’s discretion. While we are sympathetic to \_\_\_\_\_ situation, his employer decides whether a participant has submitted a timely claim.

I am sorry we cannot be of greater assistance to \_\_\_\_\_. If you need additional information, please contact me or \_\_\_\_\_ of my staff at \_\_\_\_\_.

Sincerely,

Christine Ellison, Acting Chief  
Health and Welfare Branch  
Office of Associate Chief Counsel  
(Tax Exempt and Government Entities)