

## Employee Benefit Plans Alert

# Updates: Amendments Required for HRAs and Cafeteria Plans and the PCORI Fee

By Louis F. LiBrandi, Principal and Anthony Bianchi, Senior Tax Associate

In an [earlier Employee Benefit Plans Alert](#), we provided information on IRS guidance pertaining to Health Reimbursement Arrangements (HRAs) and Cafeteria Plans. That guidance, as detailed in IRS Notices 2020-29 and 2020-33 (Notices), provides for relief through expanded plan features and increased plan limits as a result of the COVID-19 pandemic.

The relief outlined in the Notices will require that existing plan documents be amended by December 31, 2021. This Alert provides answers to some of the more pressing questions regarding the amendments.

### **Q: Which plan changes require an amendment?**

**A:** The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) removes the limitation requiring a prescription for over-the-counter (OTC) drugs and medicines in order for them to be deemed eligible expenses. The CARES Act Amendment removes that limitation from the plan documents.

In addition, the CARES Act allows reimbursement of certain expenses incurred for telehealth services which can impact Cafeteria Plan documents, but not the HRA documents.

### **Q: What if the plan sponsor still wants the prescription requirement for over-the-counter (OTC) drugs and medicines?**

**A:** The plan sponsor continues to have the discretion of choosing which expenses are considered eligible expenses under the plan.

### **Q: Does the CARES Act Amendment require a Summary of Material Modifications (SMM) to be distributed to participants?**

**A:** Yes, for Cafeteria Plan documents. An SMM (Summary of Material Modifications) with the CARES Act Amendment would provide information to participants with sample language such as: "Effective for expenses incurred after January 1, 2020, prescriptions are no longer required for medicines and drugs."

### **Q: What if I am establishing a new Cafeteria or HRA plan requiring a document?**

**A:** For newly established plans, the CARES Act Amendments should be automatically incorporated into the plan document.

The Employee Benefit Services Group at PKF O'Connor Davies has assisted many clients in the creation of various welfare plan documents. We are available to complete the amendments necessitated by the CARES Act.

## 2019 PCORI Fee Issued by the IRS

The Internal Revenue Service (IRS) has issued Notice 2020-44 to adjust the fee paid by insured and self-insured health plans to fund the Patient-Centered Outcomes Research Institute (PCORI) Trust Fund and to provide transition relief for calculating the average number of covered lives as part of calculating the

applicable fee for policy years and plan years that end on or after October 1, 2019, and before October 1, 2020. This fee is applicable for 2019 calendar year plans.

For a calendar year plan, the Form 720 is due to be filed with the IRS by July 31, 2020.

If you have any questions regarding the reporting of the Form 720, or the method used to prepare the Form 720, please contact one of the professionals identified below.

## Staying Current

More than ever it seems plan sponsors and administrators need to stay abreast of the ever-changing landscape for employee benefit plans. This includes updating plan documents and reporting (and paying when applicable) to the Internal Revenue Service and the Employee Benefit Security Administration.

## Contact Us

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist employers with the various compliance reporting and other requirements imposed by federal agencies. We also provide a full spectrum of compliance services for qualified retirement plans, non-qualified deferred compensation plans, and welfare plans. For more information, please contact your client services partner or one of the following:

Timothy J. Desmond, CPA  
Partner  
Director of Employee Benefit Services  
[tdesmond@pkfod.com](mailto:tdesmond@pkfod.com) | 551.249.1728

Louis F. LiBrandi, EA, CEBS, ChFC, TGPC  
Principal  
Employee Benefit Services Group  
[librandi@pkfod.com](mailto:librandi@pkfod.com) | 646.449.6327

Anthony Bianchi, CEBS  
Senior Associate  
Employee Benefit Services Group  
[abianchi@pkfod.com](mailto:abianchi@pkfod.com) | 646.449.6385

## About PKF O'Connor Davies

PKF O'Connor Davies, LLP is a full-service certified public accounting and advisory firm with a long history of serving clients both domestically and internationally. With roots tracing to 1891, twelve offices in New York, New Jersey, Connecticut, Maryland and Rhode Island, and more than 800 professionals, the Firm provides a complete range of accounting, auditing, tax and management advisory services. PKF O'Connor Davies is ranked 27th on *Accounting Today's* 2020 "Top 100 Firms" list. It is also ranked among the top 20 best accounting employers to work for in North America by *Vault*.

PKF O'Connor Davies is the lead North American representative in PKF International, a global network of legally independent accounting and advisory firms located in over 400 locations, in 150 countries around the world.

Our Firm provides the information in this e-newsletter for general guidance only, and it does not constitute the provision of legal advice, tax advice, accounting services, or professional consulting of any kind.