

# COVID-19 AND THE CARES ACT: KEY IMPACTS ON BENEFIT PLAN SPONSORS

## HEALTH PLANS AND FRINGE BENEFITS

Diagnostic Testing	<ul style="list-style-type: none"> <li>FFCRA requires group health plans and insurers to provide coverage for COVID-19 diagnostic testing at no cost to covered individuals, without prior authorization.</li> <li>CARES Act includes in vitro testing not yet approved under the Federal Food, Drug, and Cosmetic Act, unless approval is denied or not sought within a reasonable time, and sets diagnostic testing reimbursement rates.</li> </ul>	Effective 3/18/20
Preventive Services	<ul style="list-style-type: none"> <li>Group health plans and insurers must cover “qualifying coronavirus preventive services” without any deductible, copayments or other cost-sharing.</li> <li>“Qualifying coronavirus preventive services” are items, services or immunizations intended to prevent or mitigate coronavirus and that are either (i) evidence-based items or services rates “A” or “B” by the US Preventive Services Task Force or (ii) an immunization recommended by the CDC’s Advisory Committee on Immunization Practices.</li> </ul>	Coronavirus preventive services must be covered within 15 days of becoming qualified.
OTC Products, Medications	Over-the-counter medications and menstrual care products are qualified medical expenses that may be paid for using health savings accounts (HSAs), flexible spending accounts (FSAs) or health reimbursement arrangements (HRAs).	Effective 1/1/20
Telehealth	Remote care services and telehealth can be covered under a high deductible health plan before the deductible is met without disqualifying participants from contributing to HSAs.	Plan years beginning on or before 12/31/21
Student Loans	<ul style="list-style-type: none"> <li>Employers may contribute up to \$5,250 per calendar year tax-free toward the repayment of an employee’s student loans incurred while employed.</li> <li>A written program is required (under Section 127 of the Internal Revenue Code).</li> </ul>	Payments made by employer between 3/27/20 - 1/1/21

\*Effective as of April 6, 2020; subject to change as legislation is enacted and regulations promulgated.

*These action items are intended as an educational tool and not as legal advice.*

waller

wallerlaw.com

## RETIREMENT PLANS

Qualified Retirement Plan Relief	<a href="#">See chart on Action Items for Retirement Plan Sponsors under the CARES Act.</a>
Pension Funding Delay	<ul style="list-style-type: none"><li>• The CARES Act delays the due date for 2020 pension plan contributions to 1/1/21, at which time contributions are due with interest.</li><li>• Defined benefit plan sponsors may treat the adjusted funding target attainment percentage (ADTAP) for the 2019 plan year as the ADTAP for the 2020 plan year.</li></ul>

## ADDITIONAL CONSIDERATIONS FOR BENEFIT PLAN SPONSORS

ACA Compliance	Furloughs, leaves and other employment and coverage changes may impact Affordable Care Act compliance with respect to the requirement to offer coverage to 95 percent of full-time employees and the affordability of coverage.
Cafeteria Plan	<ul style="list-style-type: none"><li>• A termination or reduction in hours of an employee or spouse may trigger a mid-year change in status that would permit election changes.</li><li>• Shutdowns of schools and other childcare facilities may trigger a mid-year change in status for employees to reduce or end their contributions to dependent care FSAs.</li></ul>
Qualified Disaster Payments	<ul style="list-style-type: none"><li>• Section 139 of the Internal Revenue Code allows employers to make “qualified disaster relief payments” to employees for reasonable and necessary expenses incurred as a result of federally declared disaster (such as the COVID-19 pandemic).</li><li>• Qualified payments are tax-free to employees but fully deductible by employers.</li><li>• Amounts paid or reimbursed must be reasonably expected to be commensurate with expenses incurred, and cannot be otherwise compensated for by insurance or intended to replace lost income (e.g., sick pay and family medical leave pay remain taxable compensation).</li></ul>
Partial Plan Termination	If an employer terminates employees or undergoes layoffs or a reduction in force impacting 20 percent or more of employees participating in the retirement plan, benefits to those terminated may become fully vested.

*These action items are intended as an educational tool and not as legal advice.*

waller

wallerlaw.com

Benefit Premiums and COBRA	<ul style="list-style-type: none"> <li>Participant's failure to pay premiums could cause coverage to lapse without triggering COBRA continuation coverage.</li> <li>Employers should clarify how employees will continue to pay premiums for coverage during leave (e.g., third party vendor, ACH payment, personal check by mail, etc.).</li> <li>Employers should confirm whether coverage eligibility is lost as a result of furlough; if so, furloughed employees may be eligible for COBRA and should receive notice.</li> </ul>
Certain Deadlines May Be Postponed	<ul style="list-style-type: none"> <li>CARES Act authorizes the DOL to delay certain ERISA required filings, such as the Form 5500, for up to one year.</li> <li>Further guidance is forthcoming.</li> </ul>
Payroll Taxes	<ul style="list-style-type: none"> <li>Employers may defer payment of the employer share of Social Security taxes between 3/27/20 and 12/31/20.</li> <li>Amounts are to be paid over the following two years: one-half due on 12/31/21 and one-half due on 12/31/22.</li> <li><a href="#">Resource: Companies can tap into payroll tax credits for providing coronavirus-related leave to employees</a></li> </ul>
Employee Retention Tax Credits	<ul style="list-style-type: none"> <li>Eligible employers are allowed a refundable payroll tax credit of 50 percent of qualified wages paid or incurred between 3/27/20 and 12/31/20 (up to \$10,000 per employee) if operations were suspended because of a shut-down order due to COVID-19 or gross receipts declined by more than 50 percent compared to the same quarter in the prior year.</li> <li>Employers who are awarded a payroll protection loan under the CARES Act are not also eligible for the retention tax credit.</li> </ul>

*These action items are intended as an educational tool and not as legal advice.*

waller

wallerlaw.com