

# **Flexible Spending Account Upon Retirement**

## ***State of Delaware – Office of Pensions***

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The IRS Section 125 Tax Code provides for employers to offer the Flexible Spending Account (FSA) benefit program to active employees through deductions to their compensation. As the IRS Section 125 Tax Code makes no provision for retirees to participate in FSA, the State of Delaware cannot provide the FSA program to retirees.

Active employees (members) enrolled in FSA will have their participation terminated effective the date of retirement OR the date of their last FSA payroll deduction. For example, a member may retire effective September 1 but continue to be paid and have FSA deductions until September 24. The member may choose either date, however, in most instances the latter date is used. If September 1 is used, FSA deductions made after September 1 would have to be refunded to the member and taxes paid on those dollars and, in some cases, a revised W-2 prepared. Also, the member will not be reimbursed for services received after September 1. If the September 24 date is used, the member will not be reimbursed for services received after September 24. In either situation, the member may request reimbursement for services until April 15 of the year following the plan year.

When a member enrolled in FSA's health care account is being processed for retirement, his/her Benefit Representative (at member's employing agency/school district) must provide notice for COBRA if the member's balance of their elected amount is greater than the member's year-to-date contributions. The member will receive written notice for the continuation of the FSA program via COBRA and applicable amounts due. Through COBRA the retiree will be provided the opportunity to continue participating in FSA for the plan year.

Members with unclaimed balances as of April 15 following the end of the plan year will forfeit those balances to the State of Delaware.

Please contact the Statewide Benefits Office at 739-8331 or 1-800-489-8933 with additional concerns or questions.