

Congress of the United States
Washington, DC 20515

April 7, 2020

The Honorable Steven T. Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Michael J. Desmond
Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Secretary Mnuchin and Chief Counsel Desmond:

Millions of Americans choose to participate in cafeteria plans offered by their employers. Under cafeteria plans, workers choose from several different benefits, including health savings accounts, flexible spending accounts, and disability insurance, among other options. Cafeteria plans are flexible enough to allow each worker to choose the right benefit package for their unique familial and financial situations.

One type of benefit many employers offer through a cafeteria plan is the Dependent Care Flexible Spending Account (DCFSA). These pre-tax benefit accounts allow families to set aside money in order to help finance dependent care options such as before-school and after-school programs, child and adult day care, and preschool. DCFSA's help Americans save money on dependent care programs and reduce a family's overall tax burden. However, in general, the decision of how much money to set aside for the year cannot be changed after the year begins, and funds must be used by the end of the year or risk forfeiture.

Due to the COVID-19 pandemic, Governors and other state and local officials have mandated the closure of schools and dependent care programs like daycares. As a result, millions of Americans will be left with money in these flexible spending accounts at the end of this year that they otherwise would have spent. On the other hand, some families may face increased childcare costs due to their unique employment situations and would benefit from increased contributions to their DCFSA.

The COVID-19 pandemic isn't just affecting DCFSA's. From health savings accounts to insurance options, Americans would benefit from additional flexibility with respect to their individual cafeteria plans elections. Some families would benefit from increased contributions into a health savings account due to unexpected health costs due to the pandemic. Other families may want to reduce their contributions to increase their take-home pay. As policymakers, we ought to equip all families with the tools to make it through this economic crisis and ease this financial pressure.

As such we ask you to quickly issue guidance allowing Americans who participate in cafeteria plans to make mid-year election changes during 2020 and offering a one-time carryover of

cafeteria plan benefits from 2020 to 2021. If you do not have sufficient regulatory authority to issue this guidance, we request your assistance in developing the necessary statutory changes to allow this important policy change.

Thank you for your urgent consideration of this request.

Sincerely,



David Trone
Member of Congress

/s/

Rick Crawford
Member of Congress

/s/

Linda Sanchez
Member of Congress

/s/

Abigail Spanberger
Member of Congress

/s/

Jim Cooper
Member of Congress

/s/

Ted Deutch
Member of Congress

/s/

Marc Veasey
Member of Congress

/s/

Susan Wild
Member of Congress

/s/

Eleanor Holmes Norton
Member of Congress

/s/

Xochitl Torres Small
Member of Congress

/s/

Brian Fitzpatrick
Member of Congress

/s/

John B. Larson
Member of Congress

/s/

Angie Craig
Member of Congress