

NOTICE OF PUBLIC HEARING

Pursuant to HRS chapter 91 and other applicable laws, notice is hereby given that the Department of Human Resources Development (DHRD) will hold a public hearing to allow public comment on proposed amendments to Hawaii Administrative Rules (HAR), Title 14, Subtitle 5, entitled "State of Hawaii Cafeteria Plan". The proposed amendments amend HAR chapter 14-52 (Flexible Spending Accounts Plan). The proposed amendments include technical and non-substantive revisions, and the significant changes are summarized as follows:

Subchapter 1 – Purpose and Definitions

The proposed amendments are to cite the State law and Internal Revenue Code (Code) that authorizes the Plan, update definitions to be consistent and more aligned with definitions provided in the Code, and update the limited rollover limit, whereby participants may rollover up to \$550 of unused amounts remaining in the flexible spending medical account from one plan year to the next, as allowed under the Code.

Subchapter 2 – Administration

The proposed amendments are to specify the specific powers and duties of the plan administrator.

Subchapter 3 – Participation in the Plan

The proposed amendments are to update the maximum annual amount of reimbursement for the flexible spending medical account to \$2,750, which is the amount currently allowed by IRS, update terminologies to provide consistency of the terms used throughout the rules, update the list of permitted election changes currently permitted under the Code, and explain how claims are to be treated for a deceased participant. In addition, the proposed amendments are to clarify existing policy.

Subchapter 4 – Accounts and Statements

The proposed amendments are housekeeping measures.

Subchapter 5 – Payment of Benefits

The proposed amendments are to clarify what the plan is permitted to do in regards to expenses for plan year 2019-2020, clarify that claims that are not completed within the 90 day run-out period will not be accepted, and explain how the debit card shall be used to pay for medical expenses.

Subchapter 6 – Use of Contributions, Forfeited Balances, and Interest

The proposed amendments are to clarify allowable usage of forfeited participant balances and interest earned.

Subchapter 7 – Continuation of Coverage for Medical Expenses Reimbursement Spending Account under COBRA

The proposed amendments are to clarify that the third-party administrator will provide notification to participants about continuation of coverage under the flexible spending medical account plan, and not all COBRA eligibility matters.

Subchapter 8 – Amendment or Termination of the Plan

The proposed amendments are to address the effects on contributions and any remaining funds in the accounts upon termination of the plan.

Subchapter 9 – General Provisions

The proposed amendments are to clarify that the plan may recover funds from participants for reimbursements made on ineligible expenses and will conform with HIPAA rules and regulation in the handling of Protected Health Information. In addition, the proposed amendments are to clarify existing policy.

A public hearing will be held on:

Wednesday, October 27, 2021, 10:00 a.m.

This will be a virtual event using Microsoft Teams.

There are two ways to participate in the public hearing: by written testimony or by accessing the virtual event via internet or telephone. All interested persons are invited to attend the virtual hearing and present relevant information to state their views relative to the proposed rules either orally or in writing for the department to consider.

Written Testimony: Should written testimony be presented, one (1) copy shall be made available to the presiding officer at the public hearing within seven (7) days before the hearing to:

Department of Human Resources Development
Employee Assistance Office
235 S. Beretania Street, Room 1004
Honolulu, HI 96813

If written testimony would be provided without attending the public hearing, written testimony must be received at the above address by 4:30 p.m. on October 27, 2021.

Online: Persons may present live video/oral testimony via internet or telephone during the online public hearing. To participate, you will need either a computer with internet access, video camera, and microphone, or a telephone. **To sign up, please email your request at least 48 hours in advance to: dhrd.eao@hawaii.gov to request the weblink to attend the virtual hearing via video conference call through Microsoft**

Teams. Please include your email, full name, and phone number. A confirmation will be sent to you with instructions, the meeting link, and call-in number.

A copy of the proposed rules will be available free of charge on the DHRD's website at <http://dhrd.hawaii.gov> or by calling (808) 587-1074 during regular business days and hours to request a hard copy. Copies may also be obtained from the above office or via regular mail upon payment of photocopying and postage handling fees.

Any individuals who require special needs accommodations, please request by email to dhrd.eao@hawaii.gov or by calling (808) 587-1074 by October 18, 2021.

RYKER WADA

Director, Department of Human Resources Development

9/27/21