



# California FSA Notice Requirement

**California law requires employers to notify their employees who have a flexible spending account of the deadline to withdraw their funds before the end of the year.**

## When does the new law take effect?

The regulation was adopted by the State of California and becomes effective January 1, 2020.

## What is the requirement?

The new law reads:

- (a) An employer shall notify an employee who participates in a flexible spending account, including, but not limited to, a dependent care flexible spending account, a health flexible spending account, or adoption assistance flexible spending account, of any deadline to withdraw funds before the end of the plan year. Notice shall be by two different forms, one of which may be electronic.
- (b) Notices made pursuant to subdivision (a) may include, but are not limited to the following:
- (1) Electronic mail communication
  - (2) Telephone communication
  - (3) Text message notification
  - (4) Postal mail notification
  - (5) In-person notification

## Tell me more

- The law does not specify the required content of the notice
- The law does not provide guidance around timing for when the notices must be provided
- The law states that notifications must be made in two different forms, and one form may be electronic
- There are no specific noncompliance penalties under the law; however, the law is included under the California Labor Code which does suggest that there could be employment-related penalties for non-compliance

## Helpful tips for employers:

- Become familiar with the new law and implement administrative processes to deliver notices to participants in 2020
- Review existing forms, disclosures, and notices to evaluate whether the requirement is already satisfied or could be modified to address it. Existing communications may include:
  - Summary plan documents (SPDs)
  - Notices within COBRA documentation for COBRA-eligible accounts
  - Final documentation provided to terminated participants
  - Annual enrollment guide
  - Explanation of benefits
- Monitor the California Department of Labor for further guidance