



The American Rescue Plan Act FSA Dependent Care Assistance Programs

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (“ARPA”), which is the latest round of federal economic stimulus legislation in response to the ongoing COVID-19 pandemic. The ARPA has several benefits-related provisions, including temporary changes related to Dependent Care Assistance Programs (DCAPs).

The New DCAP Contribution Limits

Section 129(a)(2) of the Internal Revenue Code had previously capped employees’ contributions to a DCAP at \$5,000 per year. The ARPA, however, increases these contribution limits to \$10,500. These limits represent the maximum dollar amount that can be withheld from an employee’s gross income for certain dependent care expenses.

Optional Provision

This provision is not mandatory for employers, which means plan sponsors can choose whether to adopt the new contribution increases. Although some plan sponsors may find this provision helpful, please refer to the caveat below.

Plan Amendments

Plan sponsors must amend their DCAP plan documents to allow for these new limits. Plans that are amended by the last day of the 2021 plan year can apply the new limits retroactively.

Nondiscrimination Caveat

The IRC Section 129 nondiscrimination rules were not amended by the APRA. Therefore, plan sponsors need to carefully consider the contribution increase in light of the current participation in their DCAP and test their plans accordingly to ensure they are nondiscriminatory.

We realize this last year has been challenging in many ways. Please reach out to your Intrepid Consultant if you would like to amend your DCAP plan document for 2021.