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## Employee Benefits – Question of the Month

July 2018

**Q:** We have an employee whose husband has a Health FSA through his employer. He has decided to stay home to take care of the kids. She says he doesn't have any money left in his FSA.

The employee now wants to move their family coverage to the HDHP/HSA (mid-plan year). Does the fact that her husband had an FSA through his previous employer prevent the employee from contributing to an HSA for the remainder of 2018?

I've seen commentary on some message boards that participation in an FSA disqualifies a person from contributing to an HSA for the remainder of the calendar year, but I didn't think it was very convincing.

Also, assuming she can contribute to the HSA, how much can she contribute this year?

**A:** In general, any time an employee could have medical expenses reimbursed through another health plan (defined broadly to include such things as HRAs and FSAs), there is a concern as to whether that other coverage disqualifies her from contributing to an HSA. This is referred to as "disqualifying coverage."

Unfortunately, I can't answer your question without additional information, and depending on the situation I may not be able to answer it at all. I recommend you start by asking the employee for the following information:

1. Was the FSA the husband participated in a General Purpose FSA or a Limited Purpose FSA? If the latter, then there would definitely not be a problem with the employee contributing to the HSA for the remainder of the year.
2. If it was a general purpose FSA, what is its plan year? If by some coincidence it ends around the same time as the husband leaves his job, then the FSA would no longer be considered disqualifying coverage for the HSA.

If, however, the FSA plan year doesn't end for a while, then the issues are just too nuanced for us to be able to provide a definitive recommendation. I suggest you refer the employee to her accountant for advice, including on how much she would be allowed to contribute this year. The rules for contribution limits are pretty complicated, and it's probably not in your interest to put yourself in the position of giving your employees tax advice.