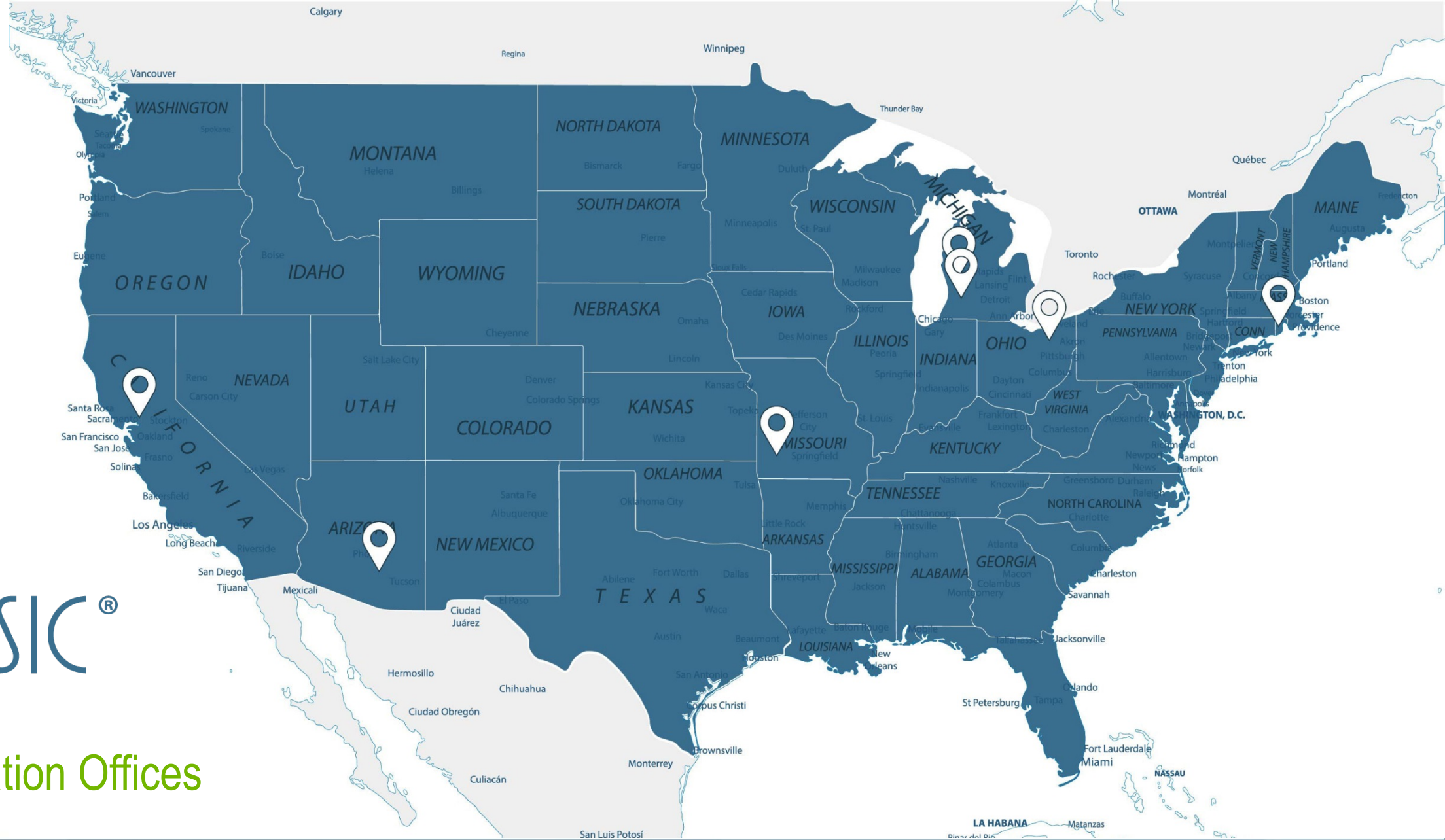




Benefit Spotlight: FSA Medical and Dependent Care



BASIC is a Technology Driven HR Compliance Company



Administration Offices



BASIC family of companies includes;

- BASIC pacific
- BASIC NEO
- BASIC New England

Technology Driven HR Solutions to Take Your Company Further

Suite of HR Benefits, Payroll and Leave Management, and Compliance solutions offered individually or bundled.



HR Solutions should be simple. **Keep it BASIC.**

➤ Presenter



Marisha Taylor
Regional Director

➤ Background

- A Flexible Spending Arrangement (“FSA”) is a benefit program that reimburses specified, incurred expenses, with pre-tax dollars
 - Medical FSAs are governed under §125 of the Code
 - Dependent Care FSAs are governed under §129 of the Code
- Employee contributions to FSAs must be made through a Section 125 cafeteria plan
- Must be maintained using a written plan document

➤ Tax Savings – Premium Contributions

- According to the [Kaiser Family Foundation](#), the average annual US employee contribution is \$1,242 for single health coverage and \$6,015 for family health coverage
- Assuming 20% tax rate, a single coverage EE would save **\$248 per year**
- Family coverage EE would save **\$1,203 per year**
- The employer would save a minimum of \$95 and \$460 respectively per EE per year in FICA taxes
- 20 similarly situated single coverage EEs and 35 family coverage EEs would **save around \$16,620 per year** in FICA taxes

➤ Tax Savings

- Dependent care \$5,000 election
 - EE tax savings at 15% \$1,150.00
 - ER with 3 EE dependent care elections saving \$1,147.50
- Medical care \$1,000 election
 - EE tax savings at 15% \$150
 - EE tax savings at 35% \$350
 - ER with elections equaling \$32,500 savings \$2,486.25

Medical FSA

➤ Overview

- Medical FSAs are subject to the following laws:
 - ACA
 - Internal Revenue Code
 - ERISA
 - COBRA
 - HIPAA
 - Privacy, Security and Breach Notification rules (Administrative Simplification Rules), unless self-administered with less than 50 participants
 - Portability rules, unless an excepted benefit

➤ ERISA & COBRA

- Summary plan description and plan documents
- If the medical FSA has 100+ participants, a Form 5500 is required
- Medical FSAs are eligible for a special “limited” COBRA obligation:
 - COBRA need not be offered to qualified beneficiaries who have “overspent” their accounts as of the date of the qualifying event
 - For those qualified beneficiaries with underspent accounts, COBRA only needs to be offered through the end of the plan year (plus any grace period or carryover)

➤ Nondiscrimination Requirements

- A health FSA cannot discriminate in favor of highly compensated individuals as to eligibility to participate in the health FSA;
- Benefits provided under the health FSA cannot discriminate in favor of highly compensated individuals
- Generally, a “highly compensated individual” is any employee in the top 25% of employees, as ranked by pay

➤ ACA

- Medical FSAs violate the ACA market reform that requires first-dollar coverage of preventive care services, unless
 - The medical FSA is “integrated” with another group health plan; or
 - The medical FSA is an excepted benefit

➤ Eligibility

- Employees do not need to be on the Employer's Health plan in order to participate in the FSA plans.
- Expenses can be incurred by the employee, spouse, employee's children who have not attained age 27 as of the end of the taxable year, or the employee's other "tax dependents"

➤ Plan Limits

- Plan Limits:
 - Limit is \$2,750 for 2020 (annually adjusted for inflation)
 - Limit applies on a plan year basis
 - Limit must be prorated for short plan years, but not for new employees hired mid-plan year
 - Limit applies on a per-employee basis
 - Limit doesn't apply to medical FSAs maintained by unrelated employers

➤ Eligible Reimbursements

- Expenses must be incurred after the employee was a participant in the health FSA
- Expenses must be incurred during the established plan year
- Only available for expenses incurred for medical care under § 213(d) of the Code
- With respect to over-the-counter (“OTC”) drugs, reimbursement of OTC drugs require a prescription
- Claims for reimbursement must be adequately substantiated

➤ Uniform Coverage Rule

- Medical FSAs are fully funded at the beginning of the plan year. The participant has access to their full election amount on the first day of the plan year.
- If an employee's reimbursements outpace the contributions made and the employee terminates employment before the end of the plan year, the employer is not permitted to deduct extra funds to catch up the contributions from final paychecks.

➤ Grace, Carryover, and Run Out

- **Grace Period** - up to two and one-half months after the end of the plan year to use funds in an FSA. Claims may be submitted for expenses incurred during the plan year and during the grace period. Grace periods are permissible for all types of FSAs.
- **Carryover** - allows participants to roll over \$500 from one plan year to the next. The \$500 is not calculated into the IRS maximum contribution. Only available on the Health FSA.
- **Run Out Period** - is the time available following the end of the plan year in which people can submit expense. Can be added to the above options.

➤ Use-it-or-lose-it Rule

- Unused contributions remaining at the end of the year must be forfeited by the participant.
- This only applies to funds following the Run Out, Grace Period, or Carryover.

Dependent Care

➤ Dependent Care FSAs - Overview

- Dependent Care FSAs are subject to the following laws:
 - Internal Revenue Code
- Dependent Care FSAs are not subject to:
 - ERISA*
 - COBRA
 - HIPAA
 - ACA

➤ Nondiscrimination Requirements

- Cannot discriminate in favor of highly compensated employees (or dependents) with regard to eligibility, contributions and benefits
- A “highly compensated employee” is generally any employee with more than \$120,000 in compensation in the previous plan year
- No more than 25% of the amounts paid or incurred under the Dependent Care FSA during a plan year may be provided to shareholders or owners (only shareholders or owners of a C corporation are eligible to participate under Section 125 of the Code)
- The average Dependent Care benefits provided to non-highly compensated employees must be at least 55% of the average benefits provided to highly compensated employees

➤ Maximum Benefit

- \$5,000 if the participant is married and filing a joint return, or if the participant is filing single
- \$2,500 if the participant is married filing separate
- Pay-as-you-go account. Uniform Coverage does not apply
- Election amounts can change or stop during the year if expenses, needed care, or unemployment of a parent status changes

➤ Eligibility

- Employee and spouse, if any, must be “gainfully employed”:
 - Employee must be working
 - Spouse, if any, must be working, looking for work, or a full-time student
- Care of qualifying dependents (i.e., the primary purpose is to ensure the individual’s well-being and protection)
- Qualifying dependents are:
 - A dependent child who has not attained the age of 13; or
 - A spouse or other dependent who is physically or mentally incapable of caring for himself/herself and who has the same principal residence as the participant for more than half the year

➤ Use-it-or-lose-it Rule

- Unused contributions remaining at the end of the plan year must be forfeited.
- Exception:
 - Grace Period is allowable
 - \$500 Carryover is not eligible for Dependent Care

➤ Dependent Care FSA v. Tax Credit

- No double-dipping – a taxpayer's dependent care expenses when calculating the Dependent Care Tax Credit are reduced by the amount of any reimbursements from a Dependent Care FSA
- Employers should advise employees that:
 - No double-dipping is allowed
 - In some cases the Dependent Care Tax Credit may be more advantageous than a Dependent Care FSA
 - Consult their tax advisors

➤ BASIC FSA



Plan Document

SPD

Non-Discrimination Testing

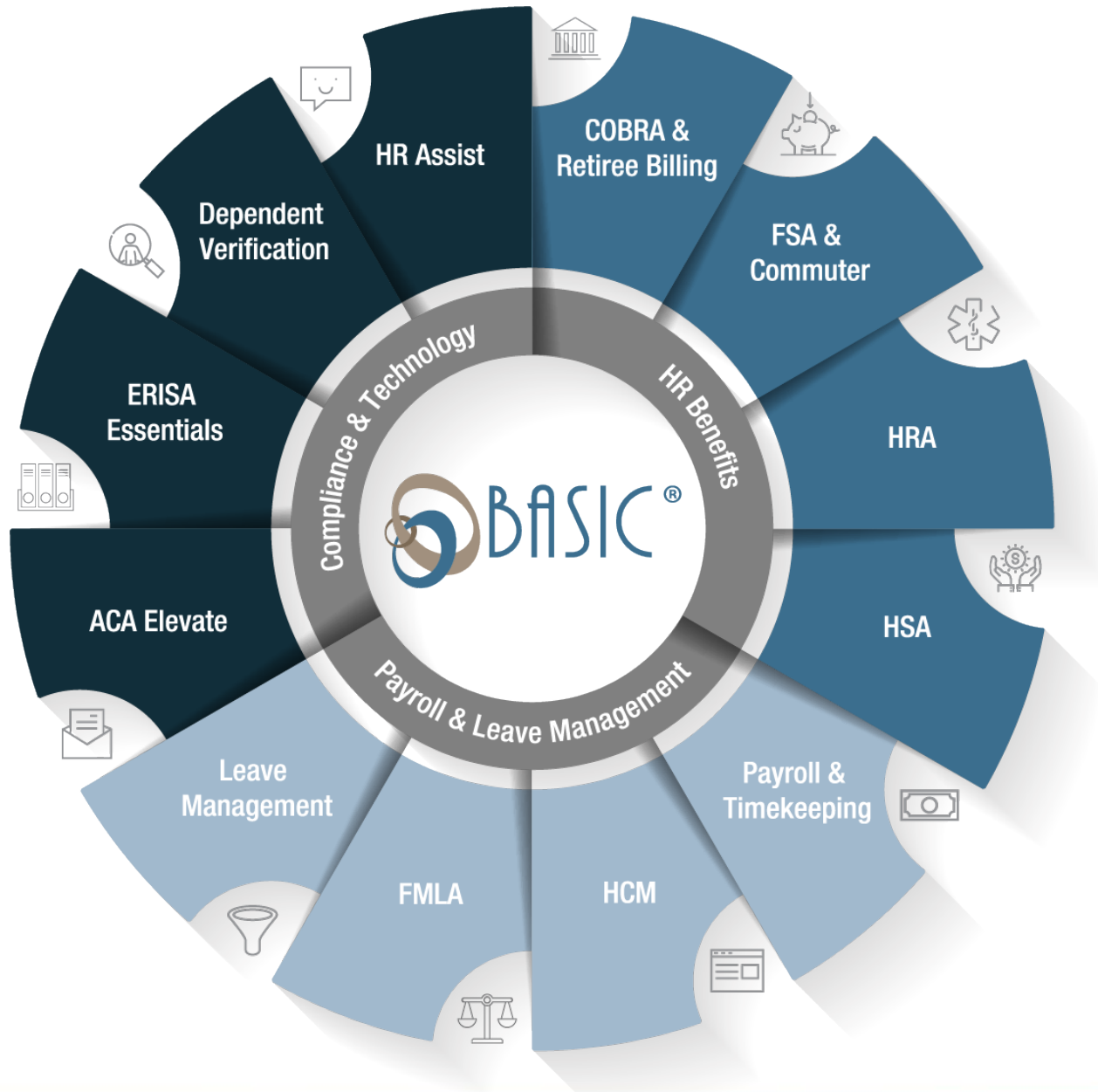
Claims Management

Enrollment Resources

Compliance Resources

QUESTIONS





Request a Proposal

For you or your client at this link:

<https://www.basiconline.com/request-a-proposal/>

BASIC Sales
888-602-2742

HR Solutions should be simple. **Keep it BASIC.**

THANK YOU

View our current webinar schedule at
www.basiconline.com/webinar.



Disclaimer

This presentation is designed to provide accurate information in regard to the subject matter covered. It is provided with the understanding that BASIC is not engaged in rendering legal or other professional services. If legal advice or other expert assistance is required, the services of a competent attorney or other professional person should be sought. Due to the numerous factual issues which arise in any human resource or employment question, each specific matter should be discussed with your attorney.