SEC. 214. TEMPORARY SPECIAL RULES FOR HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS.

(a) CARRYOVER FROM 2020 PLAN YEAR.—For plan years ending in 2020, a plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement permits participants to carry over (under rules similar to the rules applicable to health flexible spending arrangements) any unused benefits or contributions remaining in any such flexible spending arrangement from such plan year to the plan year ending in 2021.

(b) CARRYOVER FROM 2021 PLAN YEAR.—For plan years ending in 2021, a plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement permits participants to carry over (under rules similar to the rules applicable to health flexible spending arrangements) any unused benefits or contributions remaining in any such flexible spending arrangement from such plan year to the plan year ending in 2022.

(c) EXTENSION OF GRACE PERIODS, ETC.—

(1) IN GENERAL.—A plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement extends the grace period for a plan year ending in 2020 or 2021 to 12 months after the end of such plan year, with respect to unused benefits or contributions remaining in a health flexible spending arrangement or a dependent care flexible spending arrangement.

(2) POST-TERMINATION REIMBURSEMENTS FROM HEALTH FSAs.—A plan that includes a health flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement allows (under rules similar to the rules applicable to dependent care flexible spending arrangements) an employee who ceases participation in the plan during calendar year 2020 or 2021 to continue to receive reimbursements from unused benefits or contributions through the end of the plan year in which such participation ceased (including any grace period, taking into account any modification of a grace period permitted under paragraph (1)).

(d) SPECIAL CARRY FORWARD RULE FOR DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS WHERE DEPENDENT AGED OUT DURING PANDEMIC.—

(1) IN GENERAL.—In the case of any eligible employee, section 21(b)(1)(A) of the Internal Revenue Code of 1986 shall be applied by substituting ‘‘age 14’’ for ‘‘age 13’’ for purposes of determining the dependent care assistance which may be paid or reimbursed with respect to such employee under the dependent care flexible spending arrangement referred to in paragraph (3)(A) with respect to such employee during—

(A) the plan year described in paragraph (3)(A), and

(B) in the case of an employee described in paragraph (3)(B)(ii), the subsequent plan year.

(2) APPLICATION TO SUBSEQUENT PLAN YEAR LIMITED TO UNUSED BALANCE FROM PRECEDING PLAN YEAR.—Paragraph (1)(B) shall only apply to so much of the amounts paid for dependent care assistance

with respect to the dependents referred to in paragraph (3)(B) as does not exceed the unused balance described in paragraph (3)(B)(ii).

(3) ELIGIBLE EMPLOYEE.—For purposes of this section, the term ‘‘eligible employee’’ means any employee who—

(A) is enrolled in a dependent care flexible spending arrangement for the last plan year with respect to which the end of the regular enrollment period for such plan year was on or before January 31, 2020, and

(B) has one or more dependents (as defined in section 152(a)(1) of the Internal Revenue Code of 1986) who attain the age of 13—

(i) during such plan year, or

(ii) in the case of an employee who (after the application of this section) has an unused balance in the employee's account under such arrangement for such plan year (determined as of the close of the last day on which, under the terms of the plan, claims for reimbursement may be made with respect to such plan year), the subsequent plan year.

(e) CHANGE IN ELECTION AMOUNT.—For plan years ending in 2021, a plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement allows an employee to make an election to modify prospectively the amount (but not in excess of any applicable dollar limitation) of such employee's contributions to any such flexible spending arrangement (without regard to any change in status).

(f) DEFINITIONS.—Any term used in this section which is also used in section 106, 125, or 129 of the Internal Revenue Code of 1986, or the regulations or guidance thereunder, shall have the same meaning as when used in such section, regulations, or guidance.

(g) PLAN AMENDMENTS.—A plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement is amended pursuant to a provision under this section and such amendment is retroactive, if—

(1) such amendment is adopted not later than the last day of the first calendar year beginning after the end of the plan year in which the amendment is effective, and

(2) the plan or arrangement is operated consistent with the terms of such amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted.