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the tax law requires that the entire amount be available for the entire period of coverage, even if no amounts have yet been contributed to the account. Generally the period of coverage is the calendar year. So, for example, if you elected on December 15, 2009 to have $2000 deducted over the course of 2010 into your FSA, you would be entitled to the entire $2000 for medical expenses incurred beginning on January 1, 2010, even if no amounts had been deducted from your compensation at that point. The reason is that FSAs are supposed to be a type of insurance (that is the reason they get special tax benefits). If you bought a health insurance policy with a $2000 limit that is in effect for a year, you would be entitled to the entire $2000 for medical expenses incurred at any time during the year even if your premiums were being paid monthly over the course of the year.

If the employee terminates during the year, the employee may lose coverage for the rest of the year (unless he or she is entitled to and elects COBRA), but there is no tax on the amount distributed to pay for medical expenses. Conversely, if the employee stays for the year and puts the entire $2000 into the FSA, but does not incur $2000 in medical expenses, the employee gets no deduction for the amount by which the contributions to the FSA exceeded the distributions. Again, this is like insurance.