

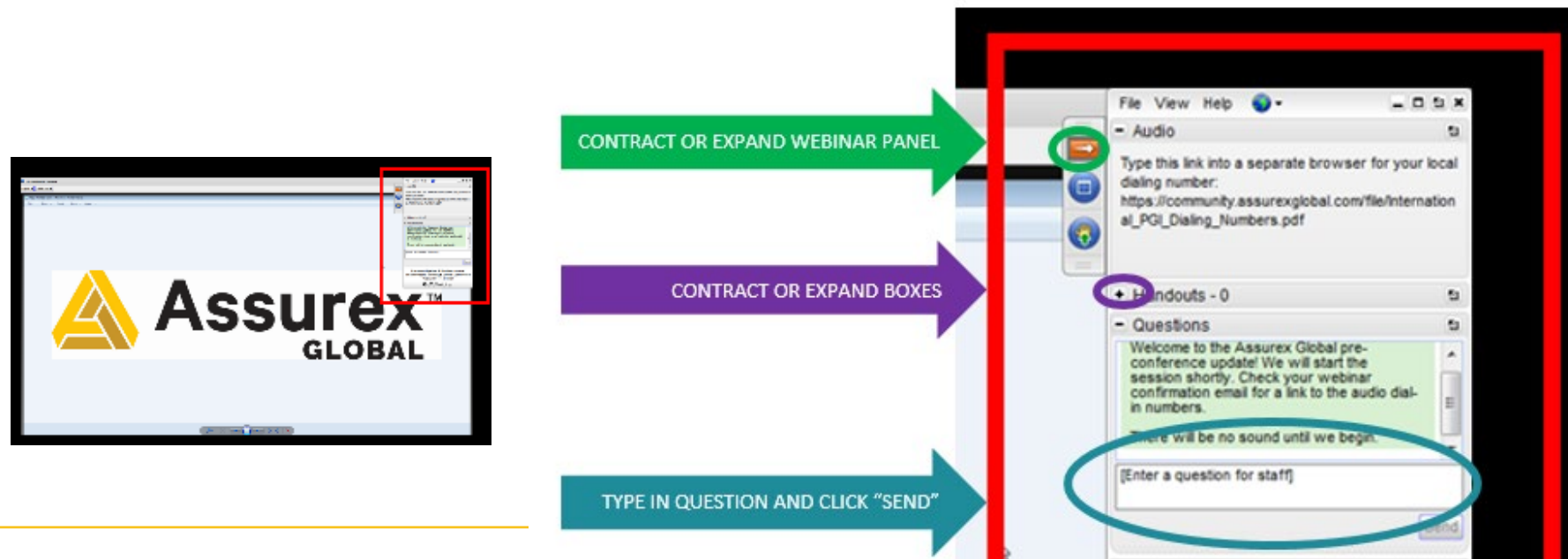
August 20, 2020

Employee Benefits Compliance 2020 Mid-Year Update

Presented by Benefit Comply

Employee Benefits Compliance 2020 Mid-Year Update

- Welcome! We will begin at 3 p.m. Eastern
- There will be no sound until we begin the webinar. When we begin, you can listen to the audio portion through your computer speakers or by calling into the phone conference number provided in your confirmation email.
- You will be able to submit questions during the webinar by using the “Questions” or “Chat” box located on your webinar control panel.
- Slides can be printed from the webinar control panel – expand the “Handouts” section and click the file to download.



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Agenda

- COVID-19 Related Changes – Overview
- Forecasting – Potential Changes
- Employer FAQs

COVID-19 Related Employee Benefit Changes

COVID-19 Benefit-Related Changes

Group Health Plan Coverage

Required:

- COVID-19 diagnostic testing

Optional:

- COVID-19 treatment (reduced cost-sharing)
- Telehealth
- OTC without prescription and menstrual product reimbursement
- Increased FSA carryover (\$550)

Group Health Plan Eligibility

Required:

- FFCRA paid leave (benefit eligibility maintained)

Optional:

- Additional special enrollment opportunities
- Extended eligibility for furloughs and lay-offs

Extended Deadlines

Required:

- HIPAA special enrollment notifications
- COBRA notifications, elections and payments
- ERISA claims (including FSA/HRA)

Optional:

- ERISA notices
- FSA/DCAP reimbursement periods

Cafeteria Plan Election Changes

Required:

- None

Optional:

- Health coverage – add/increase, change plans, drop after attesting to other coverage
- FSA/DCAP – add/increase, drop/decrease

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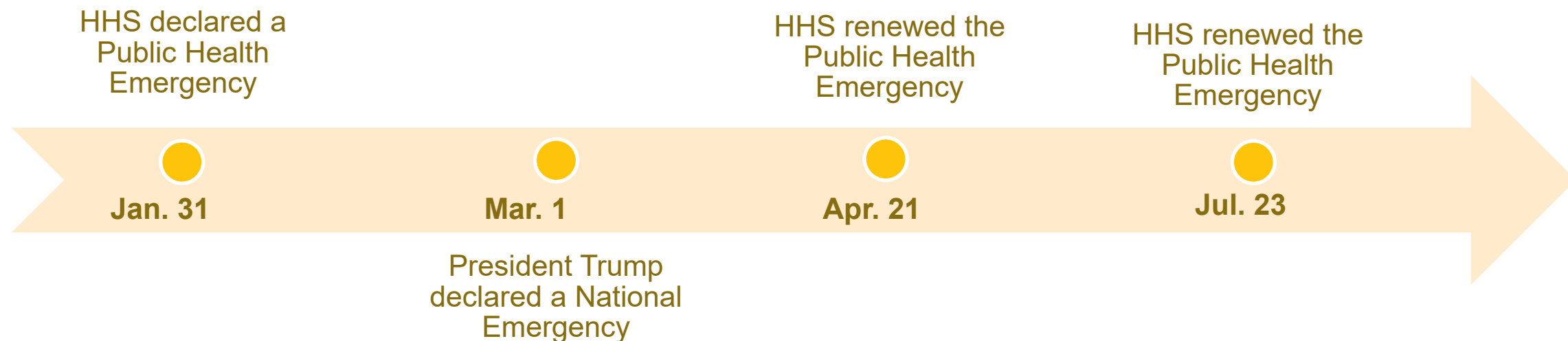
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- FSA/DCAP – add/increase, drop/decrease

Public Health Emergency & National Emergency

- Public Health Emergency (HHS)
 - Lasts for the duration of the emergency or 90 days, but may be renewed
- National Emergency (President Trump)
 - Lasts until Congress or President announces its end



Public Health Emergency & National Emergency

Public Health Emergency

- Families First Coronavirus Response Act (the FFCRA) –
 - Group health plans required to cover COVID-19 diagnostic testing and related services through the end of the public health emergency

National Emergency

- ERISA and the Code allow agencies to make changes for up to one year
- DOL and IRS Joint Rule –
 - Requires suspension of time frames under COBRA, HIPAA and ERISA until the end of the “Outbreak Period”

Outbreak Period = National Emergency + 60 days

Employer FAQs

Question 1:

What if COBRA participants fail to make premium payments during the Outbreak Period (i.e. end of the National Emergency + 60 days)? How should we handle their coverage?

COBRA Extensions

OPTION 1

Continue coverage and terminate retroactively if payment is not made within the extended timeline

OPTION 2

Continue coverage, but suspend claim payments, and still terminate coverage retroactively if payment is not made within the extended timeline

OPTION 3

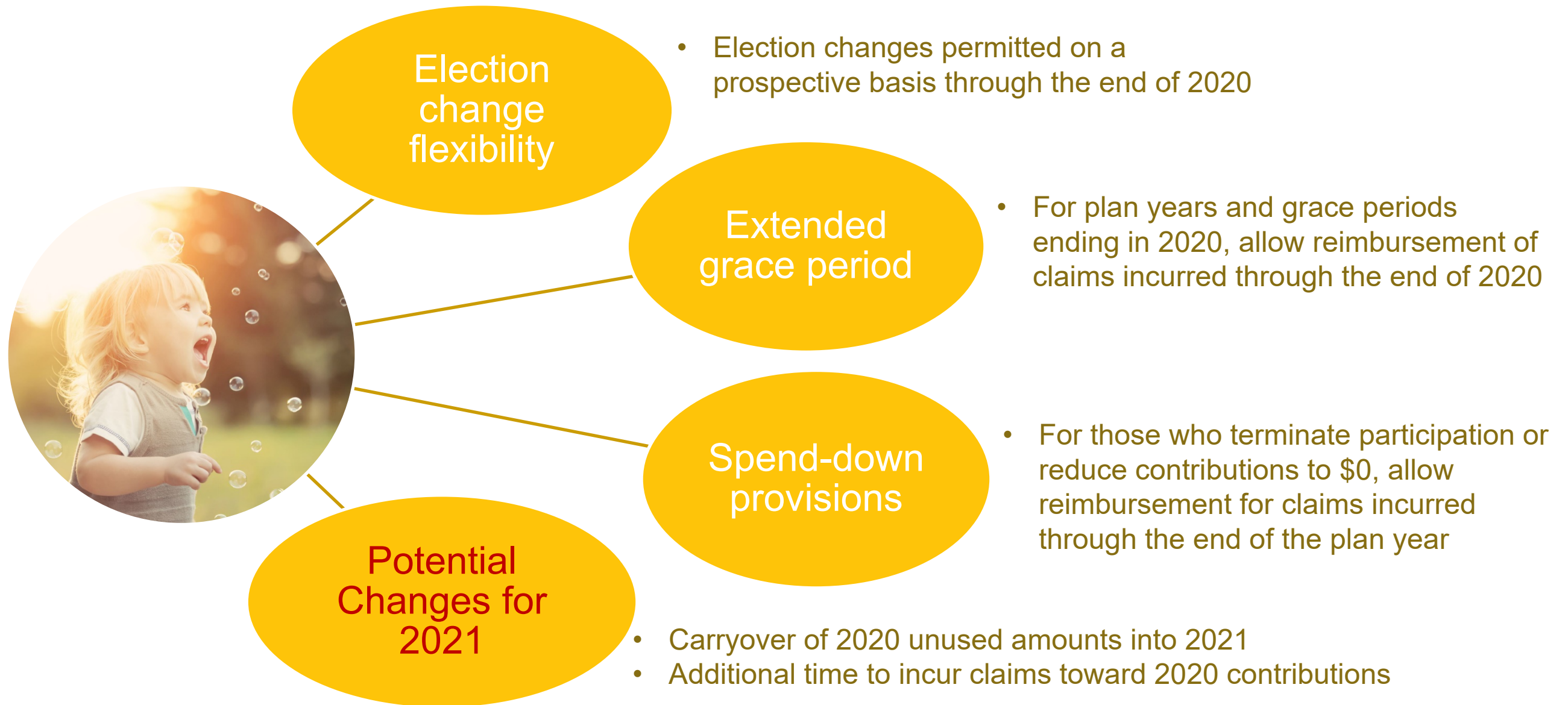
Terminate coverage and reinstate retroactively (including reprocessing any applicable claims) if payment is made within the extended timeline

- Carefully coordinate with administrators and carriers
- Make this decision uniformly for all COBRA participants

Question 2:

Many employees have been unable to utilize DCAP contributions due to daycare and camp closures. Are there any options to limit forfeitures?

DCAP Flexibility



Question 3:

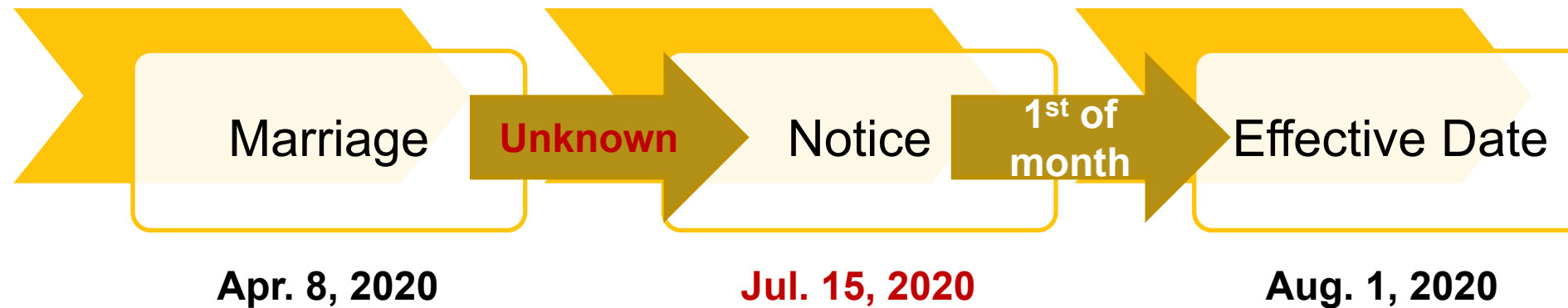
Employee got married Apr. 8, 2020, but didn't request enrollment for the new spouse until Jul. 15, 2020. Do we have to allow enrollment? And if so, when is the effective date?

HIPAA Special Enrollments – Notice Extensions

- **Standard Timeline**



- **Extended Timeline**



NOTE: For the birth/adoption of a child, enrollment is retroactive to the date of birth or adoption

Question 4:

For employers requiring COVID-19 diagnostic testing as part of a return to work or general prevention program, will the testing be covered by health plans?

COVID-19 Diagnostic Testing

Required Coverage

All individual and group health plans are required to cover COVID-19 diagnostic testing with no cost-sharing if it is recommended by a health care provider

Required for fully-insured and self-funded plans under the FFCRA (amended by the CARES Act)

Optional Coverage

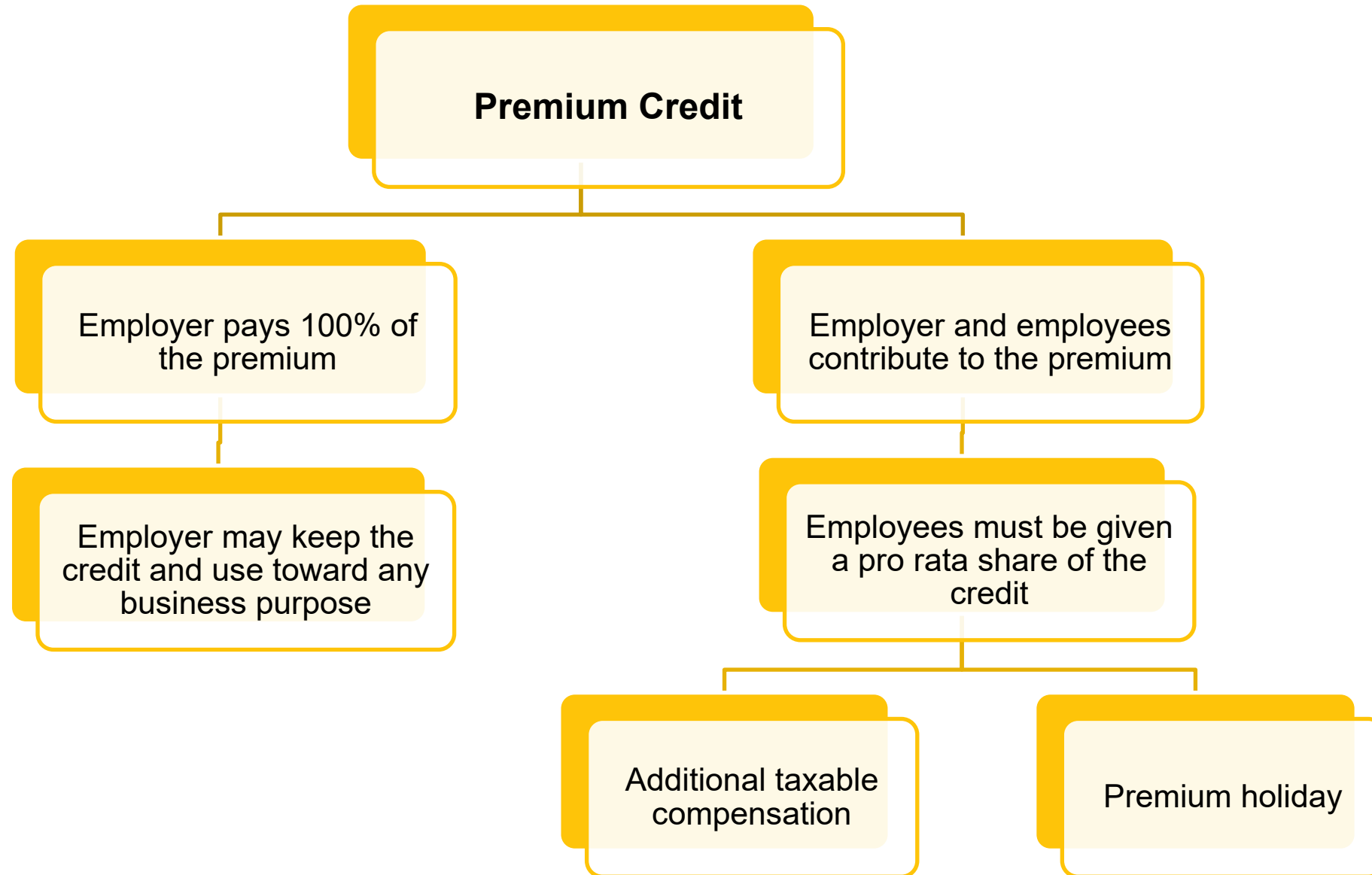
Plans are not required to cover testing as part of a return to work policy or other employment prevention/safety policy

See DOL Q&A #5 here - <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-43.pdf>

Question 5:

Our carrier provided a premium credit due to low usage over the spring and summer. Can the employer keep it?

Carrier Premium Credits



More Changes to Come?

Forecasting – Potential Changes

- HEROES Act
 - Health Insurance Related
 - Public Exchange Special Enrollment - one-time, 8-week special enrollment period with coverage retroactive to Apr. 1, 2020
 - Health plans must cover COVID-19 related treatment (not just testing) with no cost-sharing
 - Amended COBRA Notice Requirements - to provide information about Public Exchange enrollment options
 - COBRA Subsidy (more on next slide)
 - §125 Related
 - Increases DCAP maximum from \$5,000 to \$10,500 for 2021
 - Increases health FSA carryovers to \$2,750 for the 2021 plan year
 - Allow DCAP carryovers of up to \$10,500 from the 2020 to 2021 plan year
 - Permits health FSAs and DCAPs to extend grace period for the 2020 plan year for up to 12 months

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- Senate HEALS Act
 - Some small §125 changes - No COBRA Subsidy

Forecasting – Potential Changes

- HEROES Act - COBRA Subsidy
 - 100% of COBRA premium subsidy for termination of employment or reduction in hours until January 2021
 - Cover employee portion of premium for furloughed workers whose health benefits continue while pay is suspended
 - Qualified beneficiaries would lose eligibility for the subsidy when they become eligible for other employer-sponsored health coverage or Medicare
 - Employers would pay full cost for eligible individuals then recover cost through a credit against their payroll tax liability
- Other COBRA Subsidy Proposals
 - Three different COBRA subsidy bills have been introduced in Congress
 - From 6 - 15 months of subsidized COBRA coverage
 - Employer would recover lost premiums through tax credits
 - All three bills include special notice requirements

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