

EMPLOYEE BENEFITS

Summary of Status Change Events (and Corresponding Permitted Election Changes)



General Rules

1. The rules described in this document are found in the [Section 125 regulations](#) and [IRS Notice 2014-55](#). Section 125 of the Internal Revenue Code governs cafeteria plans and the elections made under cafeteria plans to make pre-tax contributions for benefits on a salary reduction basis. Section 125 does not directly apply to other plans sponsored by an employer, such as medical, dental and vision plans. When an employee requests a coverage change under another plan, the terms of that plan govern whether an employee or dependent can enroll or disenroll mid-year (i.e., outside of initial or open enrollment). Section 125 and the rules described in this document govern the separate but related issue of whether the employee can make mid-year changes to their pre-tax salary reduction elections.
2. In most cases, a cafeteria plan is not required to allow any pre-tax election changes.* This is true even if law requires the underlying health plan to allow mid-year enrollment changes (e.g., HIPAA special enrollment). A cafeteria plan may be selective in which changes are allowed. However, it is unusual for a plan not to allow any mid-year election changes. If a cafeteria plan does allow changes, the plan document should list the situations in which mid-year election changes are allowed in their plans.

*An exception applies for HSA contributions. If employees can make pre-tax HSA contributions through the cafeteria plan, they must be allowed to change their HSA elections on at least a monthly basis.
3. Election changes, if allowed, must be implemented on a prospective basis. In other words, coverage should be effective after the election change is requested – except for birth or adoption, for which pre-tax election changes made as a result of a HIPAA special enrollment in the medical plan must be effective retroactively. However, even for birth or adoption, payment for retroactive coverage must come from income not currently available at the time of the election change. There is also an exception that allows an initial election by a new employee to be effective retroactively if made within the first 30 days of employment.
4. A participant's change to their elections for legitimate changes in status must satisfy a consistency rule, which generally means the change must be “on account of and corresponding with a change in status that affects eligibility for coverage.”
5. There is no general IRS rule prescribing a period of time by which election changes must be requested. However, changes should not be allowed so long after the event that the election is not “on account” of the event. Most plans designate a specific time frame within which the Plan Administrator must be informed of an event to make a pre-tax election change. Note paragraph number 6 of these General Rules.
6. Cafeteria plan terms can require election changes to be requested within a specified period, and employers are generally required to enforce any such deadline contained in the cafeteria plan. Note: HIPAA provides that a group medical plan must give individuals a minimum amount of time (typically 30 days) following a HIPAA special enrollment event to request enrollment in the plan. The amendments to HIPAA due to the American Reinvestment and Recovery Act of 2009 (ARRA) require a 60-day notice period after the loss of eligibility for Medicaid or Children's Health Insurance Program coverage or a gain of eligibility for a State Children's Health Insurance Program for a subsidy of employer-provided coverage.
7. There is a special rule for group-term life insurance and disability coverage. Participants may be allowed to increase or decrease group-term life insurance and disability coverage due to any status change. However, unless permitted under the master group policy, increases in coverage will likely be subject to underwriter approval or evidence of insurability.

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8. A special “tag-along rule” often applies. The preamble to the final regulations indicates that election changes can be made concerning dependents directly affected by the election change event, and other dependents. However, the applicable benefit plan typically is not required to allow coverage changes for the other dependents. Changes to pre-tax elections with respect to such other dependents will be appropriate only if the terms of the applicable benefit plan allow coverage changes for those dependents.
9. The election change rules for dependent care assistance plans parallel the election change rules for accident or health coverage and group term life insurance coverage, but they are applied more liberally. For instance, election changes are allowed under the Dependent Care FSA:
 - a. When the amount of care needed by the employee changes.
 - b. When one dependent care provider replaces another dependent care provider, whether or not the dependent care provider is related to the employee.
 - c. When a dependent care provider changes the cost of care unless the dependent care provider is a relative of the employee making the election. §1.125-4(f)(2)(ii).
10. FMLA qualifying leaves are also subject to [§1.125-3](#), which is not included in this summary.
11. The election changes affecting group health plans generally apply to pre-tax elections with respect to the medical plan, dental plan and vision plan. However, the HIPAA Special Enrollments election change event is generally applicable only to the group medical plan because it is not applicable with respect to any HIPAA excepted benefits.
12. Employees who elect not to participate in the cafeteria plan at the beginning of the year **have made an annual election of \$0** (they are electing taxable cash in lieu of non-taxable benefits).



HIPAA Special Enrollment Events

Note: Many HIPAA special enrollment events also qualify as changes in status. See below.

Birth, Adoption or Placement for Adoption				
Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 2, 3}	Health FSA ⁶	Dependent Care FSA
30 Days ⁴	Date of birth, adoption or placement for adoption ⁵	<ol style="list-style-type: none"> Add coverage for the new dependent(s) (if employee is already enrolled) Add coverage for a spouse (if employee is already enrolled) Add coverage for employee only Add coverage for employee and spouse Add coverage for employee and new dependent(s) Add coverage for employee, spouse and new dependent(s) 	N/A	N/A

- In most cases, only the group medical plan is subject to the HIPAA special enrollment rules (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
- HIPAA special enrollment rules allow for the employee and/or spouse to be added with the newly-acquired dependent(s) but do not require the plan to allow the addition of any pre-existing dependents not previously covered by the health plan. However, cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the plan sponsor’s plan eligibility rules*.
- When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.
- The medical plan must allow **at least** 30 days to request enrollment following the special enrollment event. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
- The medical plan is **required** to make the coverage effective as of the date of birth, adoption or placement for adoption. Pre-tax election changes under the cafeteria plan are effective on the date provided in the cafeteria plan. Pre-tax premium elections for group medical coverage can be effective retroactively back to date of birth, adoption or placement for adoption in this situation.
- Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made. Furthermore, changes may be made to FSA elections under some of the other election change events described elsewhere in this document.

Marriage				
Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 2, 3}	Health FSA ⁶	Dependent Care FSA
30 Days ⁴	No later than the first of the month following date of election ⁵	<ol style="list-style-type: none"> 1. Add coverage for spouse (if employee is already enrolled) 2. Add coverage for new dependent(s) (if employee is already enrolled) 3. Add coverage for employee only 4. Add coverage for employee and spouse 5. Add coverage for employee and new dependent(s) 6. Add coverage for employee, spouse and any new dependent(s) 	N/A	N/A

1. In most cases, only the group medical plan is subject to the HIPAA special enrollment rules (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. HIPAA special enrollment rules allow for the employee and/or spouse to be added with the newly-acquired dependent(s) but do not require the plan to allow the addition of any pre-existing dependents not previously covered by the health plan. However, cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the plan sponsor’s plan eligibility* rules.
3. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.
4. The medical plan must allow **at least** 30 days to request enrollment following the special enrollment event. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
5. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
6. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made. Furthermore, changes may be made to FSA elections under some of the other election change events described elsewhere in this document.

Loss of Eligibility for State Children’s Health Insurance Program (SCHIP) or Medicaid				
Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 6}	Health FSA ⁵	Dependent Care FSA
60 Days ²	No later than the first of the month following date of election ³	Add employee, spouse and/or dependent(s) losing eligibility ⁴	N/A	N/A

Gain of Eligibility for SCHIP or Medicaid Premium Subsidy				
Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 6}	Health FSA ⁵	Dependent Care FSA
60 Days ²	No later than the first of the month following date of election ³	Add employee, spouse and/or dependent(s) losing eligibility ⁴	N/A	N/A

1. In most cases, only the group medical plan is subject to the HIPAA special enrollment rules (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 60 days to request enrollment following the special enrollment event. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
3. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
4. It is unclear whether an individual not experiencing the event is eligible for special enrollment, but if the medical plan allows it, the Section 125 tag-along rule would allow an election change.
5. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made.
6. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Loss of eligibility for other coverage⁶ due to:

Divorce, Legal Separation and Annulment or Death of Spouse

Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 7}	Health FSA ⁵	Dependent Care FSA
30 Days ²	No later than the first of the month following date of election ³	<ol style="list-style-type: none"> 1. If the employee loses coverage under spouse's plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The employee and any dependent(s) 2. If a dependent loses coverage under spouse's plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The dependent⁴ (if employee is already enrolled) c. The employee and the dependent⁴ 	N/A	N/A

1. The special enrollment rights generally apply only to group medical plans (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 30 days to request enrollment following the loss of coverage. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
3. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
4. HIPAA special enrollment rules do not require the plan to allow the enrollment of any dependents not losing coverage under the other plan. However, cafeteria plan rules permit the addition ("tag-along") of other dependents *if permitted under the plan sponsor's plan eligibility rules*.
5. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made.
6. The other coverage must have been in place at a time coverage was offered to the individual under the employer's plan. The other coverage that is lost must be coverage under a group health plan (e.g., an employer-sponsored health plan) or health insurance (as defined in HIPAA).
7. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor's group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Loss of eligibility for other coverage⁶ due to:

Spouse's or Dependent's Termination or Reduction in Hours of Employment

Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 7}	Health FSA ⁵	Dependent Care FSA
30 Days ²	No later than the first of the month following date of election ³	<ol style="list-style-type: none"> 1. If the employee loses coverage under spouse's plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The employee and any dependent(s) 2. If spouse or a dependent loses coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The dependent⁴ (if employee is already enrolled) b. The employee and the dependent⁴ 	N/A	N/A

1. The special enrollment rights generally apply only to group medical plans (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 30 days to request enrollment following the loss of coverage. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
3. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
4. HIPAA special enrollment rules do not require the plan to allow the enrollment of any dependents not losing coverage under the other plan. However, cafeteria plan rules permit the addition ("tag-along") of other dependents *if permitted under the plan sponsor's plan eligibility rules*.
5. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made.
6. The other coverage must have been in place at a time coverage was offered to the individual under the employer's plan. The other coverage that is lost must be coverage under a group health plan (e.g., an employer-sponsored health plan) or health insurance (as defined in HIPAA).
7. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor's group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Loss of eligibility for other coverage⁶ due to:

Loss of Dependent Status

Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 7}	Health FSA ⁵	Dependent Care FSA
30 Days ²	No later than the first of the month following date of election ³	1. Add coverage for: a. The employee b. The dependent ⁴ (if employee is already enrolled) c. The employee and the dependent ⁴	N/A	N/A

1. The special enrollment rights generally apply only to group medical plans (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 30 days to request enrollment following the loss of coverage. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
3. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
4. HIPAA special enrollment rules do not require the plan to allow the enrollment of any dependents not losing coverage under the other plan. However, cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the plan sponsor’s plan eligibility rules*.
5. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made.
6. The other coverage must have been in place at a time coverage was offered to the individual under the employer’s plan. The other coverage that is lost must be coverage under a group health plan (e.g., an employer-sponsored health plan) or health insurance (as defined in HIPAA).
7. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Loss of eligibility for other coverage⁶ due to:

Exhaustion of COBRA

Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 7}	Health FSA ⁵	Dependent Care FSA
30 Days ²	No later than the first of the month following date of election ³	<ol style="list-style-type: none"> 1. If the employee exhausts COBRA coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The employee and any dependent(s) 2. If spouse or a dependent exhausts COBRA coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The spouse or dependent⁴ (if employee is already enrolled) c. The employee and the spouse or dependent⁴ 	N/A	N/A

1. The special enrollment rights generally apply only to group medical plans (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 30 days to request enrollment following the loss of coverage. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
3. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
4. HIPAA special enrollment rules do not require the plan to allow the enrollment of any dependents not losing coverage under the other plan. However, cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the plan sponsor’s plan eligibility rules*.
5. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made.
6. The other coverage must have been in place at a time coverage was offered to the individual under the employer’s plan. The other coverage that is lost must be coverage under a group health plan (e.g., an employer-sponsored health plan) or health insurance (as defined in HIPAA).
7. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Loss of eligibility for other coverage⁶ due to:

Termination of Employer Contributions for Non-COBRA Coverage

Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 7}	Health FSA ⁵	Dependent Care FSA
30 Days ²	No later than the first of the month following date of election ³	<ol style="list-style-type: none"> 1. If the employee loses coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The employee and any dependent(s) 2. If spouse or a dependent loses coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The spouse or dependent⁴ (if employee is already enrolled) c. The employee and the spouse or dependent⁴ 	N/A	N/A

1. The special enrollment rights generally apply only to group medical plans (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 30 days to request enrollment following the loss of coverage. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
3. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
4. HIPAA special enrollment rules do not require the plan to allow the enrollment of any dependents not losing coverage under the other plan. However, cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the plan sponsor’s plan eligibility rules*.
5. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made.
6. The other coverage must have been in place at a time coverage was offered to the individual under the employer’s plan. The other coverage that is lost must be coverage under a group health plan (e.g., an employer-sponsored health plan) or health insurance (as defined in HIPAA).
7. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Loss of eligibility for other coverage⁶ due to:

Plan No Longer Offers Benefits to the Class of Similarly-Situated Individuals

Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 7}	Health FSA ⁵	Dependent Care FSA
30 Days ²	No later than the first of the month following date of election ³	<ol style="list-style-type: none"> 1. If the employee loses coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The employee and any dependent(s) 2. If spouse or a dependent loses coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The spouse or dependent⁴ (if employee is already enrolled) c. The employee and the spouse or dependent⁴ 	N/A	N/A

1. The special enrollment rights generally apply only to group medical plans (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 30 days to request enrollment following the loss of coverage. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
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4. HIPAA special enrollment rules do not require the plan to allow the enrollment of any dependents not losing coverage under the other plan. However, cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the plan sponsor’s plan eligibility rules*.
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6. The other coverage must have been in place at a time coverage was offered to the individual under the employer’s plan. The other coverage that is lost must be coverage under a group health plan (e.g., an employer-sponsored health plan) or health insurance (as defined in HIPAA).
7. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Loss of eligibility for other coverage⁶ due to:

Individual No Longer Resides or Works in Service Area

And no other benefit package is available.

Notification Requirement	Election Change Effective Date	Health Coverage ^{1, 7}	Health FSA ⁵	Dependent Care FSA
30 Days ²	No later than the first of the month following date of election ³	<ol style="list-style-type: none"> 1. If the employee loses coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The employee and any dependent(s) 2. If spouse or a dependent loses coverage under other plan, add coverage for: <ol style="list-style-type: none"> a. The employee b. The spouse or dependent⁴ (if employee is already enrolled) c. The employee and the spouse or dependent⁴ 	N/A	N/A

1. The special enrollment rights generally apply only to group medical plans (all following footnotes are based on this assumption). Health coverage that qualifies as a HIPAA excepted benefit (e.g., most dental and vision plans) is not required to allow mid-year enrollment in these circumstances, although many do. For cafeteria plan election changes made in these situations, the change is allowed under the change in status exception to the irrevocable election rule discussed below, not the HIPAA special enrollment exception.
2. The medical plan must allow **at least** 30 days to request enrollment following the loss of coverage. A plan may use a longer time period. The cafeteria plan likely also imposes a deadline for election change requests. The cafeteria plan deadline is discretionary and is established by the plan sponsor.
3. The medical plan is **required** to make the coverage effective no later than the first of the month following the request, but some medical plans are more generous and provide retroactive coverage. Cafeteria plan election changes in this situation must be effective prospectively. Employees may pay premiums for retroactive coverage on a pre-tax basis only if the qualifying status change event is the birth/adoption/placement for adoption of a child or if the employee is newly hired. For other qualifying status change events (such as this one) where the pre-tax premium election change cannot be effective retroactively, if coverage under the medical plan is retroactive then an employee may pay premiums for the retroactive coverage on a post-tax basis until their pre-tax premium election effective date.
4. HIPAA special enrollment rules do not require the plan to allow the enrollment of any dependents not losing coverage under the other plan. However, cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the plan sponsor’s plan eligibility rules*.
5. Most health FSAs are HIPAA-excepted benefits and are not subject to the special enrollment requirements. In the rare cases in which the health FSA is not a HIPAA excepted benefit, changes similar to the changes allowed to health coverage may be made.
6. The other coverage must have been in place at a time coverage was offered to the individual under the employer’s plan. The other coverage that is lost must be coverage under a group health plan (e.g., an employer-sponsored health plan) or health insurance (as defined in HIPAA).
7. When exercising HIPAA special enrollment rights, employees have the right to elect coverage under any coverage option that is part of the plan sponsor’s group medical plan. This includes the right to change coverage options. It is not entirely clear whether this rule applies when there are multiple medical plans instead of a single plan with multiple coverage options.

Change in Status Events

Note: Many changes in status events also qualify as HIPAA Special Enrollment events. See previous pages for changes allowed due to HIPAA special enrollment.

Birth, Adoption or Placement for Adoption				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days) ¹	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following), but may be retroactive ²	<ol style="list-style-type: none"> Increase election to pay for health coverage added for employee, spouse and/or new or existing dependent(s)³ Decrease election to pay for health coverage if covered employee, spouse and/or dependent(s) become covered under spouse's plan due to event 	Increase election due to gain of dependent(s)	Increase election due to gain of dependent(s)

Marriage				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days) ¹	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following), but must be prospective ²	<ol style="list-style-type: none"> Increase election to pay for health coverage added for employee, new spouse and/or new or existing dependent(s)³ Decrease election to pay for health coverage if covered employee and/or dependent(s) become covered under new spouse's plan 	<ol style="list-style-type: none"> Increase election due to gain of spouse and dependent(s) Decrease election if covered employee and dependent(s) become eligible under new spouse's health plan 	<ol style="list-style-type: none"> Increase election due to gain of dependent(s) Decrease election if care no longer needed (e.g., new spouse is not employed) or new spouse makes an election under spouse's DCAP

1. If HIPAA special enrollment rules apply, deadline for requesting enrollment in health plan may differ. See above.
2. If HIPAA special enrollment rules apply, effective date of coverage may differ. See above.
3. Cafeteria plan rules permit the addition ("tag-along") of other dependents *if permitted under the health plan's rules*. Cafeteria plan rules also permit a change of plans or coverage options *if permitted under the health plan's rules*.

Divorce, Legal Separation, Annulment or Death of Spouse

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days) ¹	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following), but must be prospective ²	<ol style="list-style-type: none"> 1. Cease contributions for spouse (typically occurs automatically)³ 2. Employee may change plans or coverage options if permitted under the health plan's rules 3. Add coverage for employee and/or dependent(s) losing coverage under spouse's plan⁴ 	<ol style="list-style-type: none"> 1. Increase election if event causes loss of coverage under former spouse's health plan 2. Decrease election because spouse is no longer eligible³ 	<ol style="list-style-type: none"> 1. Increase election if event increases dependent care expenses (and employee can treat the child(ren) as qualifying individuals⁵) or causes a loss of coverage under former spouse's plan 2. Decrease election if event decreases dependent care expenses (e.g., employee cannot treat the child(ren) as qualifying individuals)⁵

Death of Dependent

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days) ¹	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following), but must be prospective ²	<ol style="list-style-type: none"> 1. Cease contributions for dependent (typically occurs automatically) 2. Employee may change plans or coverage options <i>if permitted under the health plan's rules</i> 	Decrease election because dependent is no longer eligible	Decrease election because dependent is no longer eligible

1. If HIPAA special enrollment rules apply, deadline for requesting enrollment in health plan may differ. See above.
2. If HIPAA special enrollment rules apply, effective date of coverage may differ. See above.
3. COBRA continuation coverage also likely will be triggered (if event is divorce or legal separation).
4. Cafeteria plan rules permit the addition ("tag-along") of other dependents if permitted under the health plan's rules. Cafeteria plan rules also permit a change of plans or coverage options if permitted under the health plan's rules.
5. Under the rules applicable to dependent care FSAs, only the custodial parent may treat the couple's children as qualifying individuals if the parents are not married the entire year.

Dependent Gains Eligibility

Due to age, student status or similar circumstance (including amendment adding/expanding dependent coverage).

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following), but must be prospective	<ol style="list-style-type: none"> 1. Add dependent who satisfies plan eligibility requirements 2. Add spouse and other dependents (if "tag- along" permitted under the health plan's rules) 3. Employee may change plans or coverage options <i>if permitted under the health plan's rules</i> 	Increase election (only if dependent gains eligibility under health FSA)	Increase election if event increases dependent care expenses

Dependent Losses Eligibility

Due to age, student status or similar circumstance (including amendment eliminating/limiting dependent coverage).

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following), but must be prospective	<ol style="list-style-type: none"> 1. Cease contributions for dependent (typically occurs automatically)¹ 2. Employee may change plans or coverage options if permitted under the health plan's rules 	Decrease election (only if dependent loses eligibility under health FSA) ¹	Decrease election because dependent is no longer eligible

1. COBRA continuation coverage also likely will be triggered.

Change in Employee's Employment Status that Causes Employee to Gain Eligibility for Coverage (e.g., Hourly to Salaried, Part-Time to Full-Time, Change in Position, etc.)				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Elect coverage for employee, spouse and dependents	Elect coverage	Elect coverage

Change in Employee's Employment Status that Causes Employee to Lose Eligibility for Coverage (e.g., Salaried to Hourly, Full-Time to Part-Time, Change in Position, Strike, etc.)				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
N/A ¹	Date on which coverage is lost	Cease contributions (typically occurs automatically) ²	Cease contributions (typically occurs automatically) ²	Cease contributions (typically occurs automatically)

1. Under most cafeteria plans, an employee's cafeteria plan election associated with a health plan ends automatically when coverage under the health plan ends due to a loss of eligibility.
2. May trigger COBRA continuation coverage if due to reduction in hours.



Employee Commences Unpaid Non-FMLA Leave

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
N/A ¹	Date of event or first of the month following, if applicable	Cease contributions (typically occurs automatically) ⁴		Cease contributions (typically occurs automatically)

Employee Resumes Services MORE than 30 Days² After Termination or Leave³

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Options available to plan: <ol style="list-style-type: none"> 1. Reinstatement prior election 2. Make new election to same extent as permitted for new hires 3. No reinstatement until open enrollment⁵ 		

Employee Resumes Services LESS than 30 Days² After Termination or Leave³

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
N/A	Date of event	Reinstatement prior election unless there is an intervening status change event		

1. Assumes the employee ceases to be eligible for health coverage, the health FSA and the dependent care FSA during the unpaid non-FMLA leave. Under most plans, an employee's cafeteria plan election associated with a plan ends automatically when coverage under the plan ends due to a loss of eligibility. If the employee does remain eligible, no election change is allowed under the change in status exception, but a different exception might apply.
2. Thirty days is a safe harbor provided under the cafeteria plan regulations. Plans may use a different time period but will not have the protection of the safe harbor.
3. Assumes the employee ceases to be eligible for health coverage, the health FSA and the dependent care FSA during the unpaid non-FMLA leave.
4. COBRA continuation coverage also likely will be triggered.
5. Caution: Failing to offer medical coverage to a rehired employee who is a full-time employee might trigger employer share responsibility penalties for applicable large employers.

Employee Commences Paid Leave

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
N/A ¹	N/A	None		None ²

Employee Returns to Work After Paid Leave

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
N/A ¹	N/A	None		None ²

1. Assumes that employee remains eligible for health coverage, health FSA and dependent care FSA during paid leave.
2. Other exceptions may allow an election change under the dependent care FSA.



Changes in Spouse's/Dependent's Employment Status that Cause Spouse/Dependent to Lose Eligibility for Coverage Through Another Employer (e.g., Salaried to Hourly, Full-Time to Part-Time, Change in Position, Strike, etc.)

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> Add coverage for employee losing coverage under spouse's plan¹ Add coverage for employee and spouse/dependent losing coverage under spouse's or dependent's plan² 	Increase election if event causes loss of coverage under spouse's or dependent's health plan	Increase election if event causes loss of coverage under spouse's plan ³

Changes in Spouse's/Dependent's Employment Status that Cause Spouse/Dependent to Gain Eligibility for Coverage Through Another Employer (e.g., Hourly to Salaried, Part-Time to Full-Time, Change in Position, etc.)

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Decrease election to pay for health coverage if covered employee and/or dependent(s) become covered under other employer's plan ¹	Decrease election if event causes spouse or dependent to gain eligibility under other employer's plan	Decrease election if event causes spouse or dependent to gain eligibility under other employer's plan

1. Cafeteria plan rules also permit a change of plans or coverage options *if permitted under the health plan's rules*.
2. Cafeteria plan rules permit the addition ("tag-along") of other dependents *if permitted under the health plan's rules*. Cafeteria plan rules also permit a change of plans or coverage options *if permitted under the health plan's rules*.
3. Other exceptions may also allow an election change under the dependent care FSA.

Change in Residence of Employee, Spouse and/or Dependent that Triggers Eligibility¹

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Make election of newly available coverage for employee, spouse and/or dependent ²	N/A – change is permitted only if eligibility is affected	<ol style="list-style-type: none"> 1. Begin contributions if employee becomes eligible <i>If dependent care provider changes:</i> 2. Increase election if event causes an increase in dependent care expenses 3. Decrease election if event results in a reduction in dependent care expenses

Change in Residence of Employee, Spouse and/or Dependent that Causes Loss of Eligibility¹

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	As provided in the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> 1. Cease contributions for employee, spouse and/or dependent who loses eligibility (typically occurs automatically) 2. Employee may change plans or coverage options <i>if permitted under the health plan's rules</i> 	N/A – change is permitted only if eligibility is affected	<ol style="list-style-type: none"> 1. Cease contributions if employee becomes ineligible <i>If dependent care provider changes:</i> 2. Increase election if event causes an increase in dependent care expenses 3. Decrease election if event results in a reduction in dependent care expenses

1. Under the Section 125 regulations, a change in status that affects eligibility “includes a change in status that results in an increase or decrease in the number of an employee’s family members or dependents who may benefit from coverage under the plan.”
2. Cafeteria plan rules permit the addition (“tag-along”) of other dependents *if permitted under the health plan’s rules*.

Health Care Exchange Enrollment Events

Employee Seeks to Enroll in Exchange Coverage During Open Enrollment or Special Enrollment				
Deadline to Make Request	Election Change Effective Date	Health Coverage ¹	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Drop coverage for employee, spouse and/or dependents ² enrolling in an Exchange plan ³	N/A	N/A

1. Applies only with respect to health coverage that constitutes minimum essential coverage (i.e., typically only medical coverage).
2. The rule is not clear whether it applies when only a spouse or dependent enrolls in Exchange coverage.
3. Depending on the circumstances, Exchange coverage following a special enrollment event may not be effective until the first day of the second month after the employee applies for the coverage. According to IRS Notice 2014-55, an election change is allowed only if the intended Exchange coverage “is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.” A cafeteria plan may rely on the reasonable representation of an employee regarding satisfaction of this condition.



Reduction in Hours Without Loss of Eligibility

Employee Reduces Hours to Less Than 30 per Week ³ but Remains Eligible Due to Stability Period				
Deadline to Make Request	Election Change Effective Date	Health Coverage ¹	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Drop coverage for employee, spouse and/or dependents ²	N/A	N/A

1. Applies only with respect to health coverage that constitutes minimum essential coverage (i.e., typically only medical coverage).
2. The revocation of the election must correspond to the intended enrollment of the employee, and any related individuals who cease coverage due to the revocation, in another plan that provides minimum essential coverage with the new coverage effective no later than the first day of the second month following the month that includes the date the original coverage is revoked. A cafeteria plan may rely on the reasonable representation of an employee regarding satisfaction of this condition.
3. According to IRS Notice 2014-55, an election change is allowed when the “employee has been in an employment status under which the employee was reasonably expected to average at least 30 hours of service per week and there is a change in that employee’s status so that the employee will reasonably be expected to average less than 30 hours of service per week after the change.”

Judgment, Decree or Order

Judgment, Decree or Order Relating to Accident/Health Coverage for Child

(including Qualified Medical Child Support Orders (QMCSO)⁴)

Deadline to Make Request	Election Change Effective Date ¹	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> Add child if required under the order² Drop child if other parent provides coverage under the order³ 	<ol style="list-style-type: none"> Increase election if order requires employee to provide child's health coverage Decrease election if other parent covers child under order 	N/A

- The effective date of the child's coverage should be determined in accordance with its QMCSO procedures.
- It is unclear whether tag-along concepts apply to allow an election change with respect to the enrollment of anyone other than the child(ren) covered by the QMCSO. However, the tag-along rule likely would apply at least with respect to enrollment of the employee if the employee must be enrolled in order to comply with the QMCSO.
- It is unclear whether tag-along concepts apply to allow an election change with respect to cancellation of coverage for anyone other than the child(ren) covered by the QMCSO.
- Also applicable to National Medical Child Support Notices (NMSNs).

Medicare, Medicaid and Other Government Programs

Individual Becomes Entitled to Medicare/Medicaid

Employee, spouse or dependent enrolled in employer's accident/health plan becomes enrolled in Medicare Part A, Medicare Part B or Medicaid.

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Drop or reduce coverage for individual who enrolls in Medicare or Medicaid	Decrease election	N/A

Loss of Medicare or Medicaid² Coverage

Employee, spouse or dependent not enrolled in employer's accident/health plan.

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Commence or increase coverage of that employee, spouse or dependent ¹	Increase election	N/A

1. It is unclear, but the cafeteria plan rules might permit the addition ("tag-along") of other dependents if permitted under the plan's eligibility rules.
2. Loss of Medicaid is also a HIPAA special enrollment event. See above.

Loss of Group Health Coverage Sponsored by Governmental or Educational Institution¹

Employee, spouse or dependent not enrolled in employer's accident/health plan.

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Commence or increase coverage of that employee, spouse or dependent ²	No change permitted	N/A

1. The regulations identify the following as examples of governmental coverage: State's children's health insurance program (CHIP); a medical care program of an Indian Tribal government, the Indian Health Service, or a tribal organization; a state health benefits risk pool; and a foreign government group health plan. Note: This exception applies only upon a **loss** of such coverage, not upon **gaining** such coverage.
2. It is unclear, but the cafeteria plan rules might permit the addition ("tag-along") of other dependents if permitted under the plan's eligibility rules.

Change in Coverage or Cost – Employer’s Plan

Employer Adds New Health Plan Coverage Option				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan’s election change procedures (e.g., 30 Days)	Determined by the cafeteria plan’s election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> 1. Switch from current option to new option 2. Elect newly available coverage if coverage was previously declined 	N/A	N/A
Employer Adds New Qualified Benefit				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan’s election change procedures (e.g., 30 Days)	Determined by the cafeteria plan’s election change procedures (e.g., date of request or first of the month following) but must be prospective	Elect new benefit added to plan	Elect coverage if health FSA is new benefit added to plan	Elect coverage if DCFSA is new benefit added to plan
Existing Benefit Option is Significantly Improved				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan’s election change procedures (e.g., 30 Days)	Determined by the cafeteria plan’s election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> 1. Switch from current option to improved option 2. Elect improved option if coverage was previously declined 	N/A	Commence or increase election if DCFSA is significantly improved

Employer Eliminates Health Plan Coverage Option or Significantly Curtails Coverage in a Manner that Constitutes a Loss of Coverage¹

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
As provided in the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> Switch into another option Drop coverage if similar coverage is unavailable 	N/A	N/A

- According to the regulations, a cafeteria plan may, in its discretion, treat the following as a loss of coverage: A substantial decrease in the medical care providers available under the option (such as a major hospital ceasing to be a member of a preferred provider network or a substantial decrease in the physicians participating in a preferred provider network or an HMO); a reduction in the benefits for a specific type of medical condition or treatment with respect to which the employee or the employee's spouse or dependent is currently in a course of treatment; or any other similar fundamental loss of coverage.

Employer Eliminates Qualified Benefit

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
N/A	Date of event	Election will automatically terminate	Election will automatically terminate	Election will automatically terminate

Coverage is Significantly Curtailed (Without a Loss of Coverage)¹

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Switch to different option	N/A	Switch to different option

- The regulations provide that "coverage under a plan is significantly curtailed only if there is an overall reduction in coverage provided under the plan so as to constitute reduced coverage generally." They provide following examples of a significant curtailment of coverage: a significant increase in the deductible, the copay, or the out-of-pocket cost sharing limit under the plan. They also indicate that "most cases, the loss of one particular physician in a network does not constitute a significant curtailment."

Cost of Benefit Option Increases or Decreases

and plan provides for automatic change in election.¹

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
N/A	Date of event	Employer increases or decreases election per plan terms	N/A	For on-site daycare: employer increases or decreases payments per plan terms

1. Under most cafeteria plans, election changes occur automatically only if the cost change is insignificant.

Benefit Option Has Significant¹ Decrease in Cost

and plan does not provide for automatic change in election.

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> 1. Decrease election 2. Switch to option providing the newly reduced cost 3. Elect newly reduced cost option if coverage was previously declined 	N/A	Decrease election if daycare provider lowers rates mid-year (but only if provider is not a relative of employee)

1. The regulations do not define what constitutes a significant change. It is based on all of the facts and circumstances.

Benefit Option Has Significant¹ Increase in Cost

and plan does not provide for automatic change in election.

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> 1. Increase election 2. Switch to another option providing similar coverage and adjust election as needed 3. Drop coverage if similar coverage is unavailable 	N/A	<ol style="list-style-type: none"> 1. Increase election if daycare provider raises rates mid-year (but only if provider is not a relative of employee) 2. Switch to different provider and adjust election as needed

1. The regulations do not define what constitutes a significant change. It is based on all of the facts and circumstances.

Employee Changes Child Care Provider or Amount of Child Care Needed Changes

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	N/A	N/A	Make election change that corresponds to new costs

Change in Coverage – Another Employer Plan¹

Individual Changes Coverage During Open Enrollment for Other Plan

When open enrollment under other plan differs from the open enrollment period under Section 125 plan.

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Employee may make election change that corresponds with and is on account of change under the other plan	N/A	Employee may make election change that corresponds with and is on account of change in the other plan

Change in Another Employer-Sponsored Plan

When the other plan permits participants to make an election change that would be permitted under the Section 125 regulations.

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Employee may make election change that corresponds with and is on account of change under the other plan	N/A	Employee may make election change that corresponds with and is on account of change under the other plan

1. Including another plan of the same employer or a plan sponsored by a different employer.

FMLA Leaves

Employee Commences FMLA Leave				
Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Date of event	<ol style="list-style-type: none"> Employee has right to discontinue coverage and pre-tax election Employer can require coverage to continue (if same rule applies to non-FMLA leaves) but employee has right to discontinue pre-tax contributions¹ If employee continues coverage during leave, three options for contributions due during leave (pre-pay, pay-as-you-go, catch-up contributions)² 	<ol style="list-style-type: none"> Employee has right to discontinue coverage and pre-tax election Employer can require coverage to continue (if same rule applies to non-FMLA leaves) but employee has right to discontinue pre-tax contributions¹ If employee continues coverage during leave, three options for contributions due during leave (pre-pay, pay-as-you-go, catch-up contributions)² 	Employee who takes FMLA leave is entitled to revoke an election of non-health benefits under a cafeteria plan to the same extent as employees taking non-FMLA leave are permitted to revoke elections of non-health benefits under a cafeteria plan

1. Employer can recoup employee's contributions when employee returns from leave.
2. The pre-pay option cannot be mandated. If pre-pay option is selected by employee, only contributions due for current plan year may be taken through salary reduction on a pre-tax basis (to avoid prohibition on deferred compensation).



Employee Returns to Work After FMLA Leave

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Date of event if election reinstated Otherwise determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	<ol style="list-style-type: none"> If coverage ended during leave, employee has a right to be reinstated in coverage and reinstate pre-tax contributions on the same terms as before the FMLA leave Employee may revoke or change elections under the permitted election change regulations on the same terms as employees who are working and not on FMLA leave Employer may require reinstatement only if employees who return from a non-FMLA leave are required to be reinstated in their elections 	<ol style="list-style-type: none"> If coverage ended during leave, employee has a right to be reinstated in coverage at prior coverage level and make up unpaid employee contributions at time of reinstatement, or missed contributions may be prorated over remaining payroll periods through pre-tax salary reduction contributions¹ Employee may revoke or change elections under the permitted election change regulations on the same terms as employees who are working and not on FMLA leave Employer may require reinstatement only if employees who return from a non-FMLA leave are required to be reinstated in their elections 	<ol style="list-style-type: none"> If coverage ended during leave, employee can make new election Employee may revoke or change elections under the permitted election change regulations on the same terms as employees who are working and not on FMLA leave Employer may require reinstatement only if employees who return from a non-FMLA leave are required to be reinstated in their elections

1. Expenses incurred after coverage ended and before coverage is reinstated are not eligible for reimbursement.

COBRA Qualifying Events¹

Deadline to Make Request	Election Change Effective Date	Health Coverage	Health FSA	Dependent Care FSA
Determined by the cafeteria plan's election change procedures (e.g., 30 Days)	Determined by the cafeteria plan's election change procedures (e.g., date of request or first of the month following) but must be prospective	Increase election to pay increased cost of coverage if COBRA qualifying event occurs with respect to the employee, spouse or dependents (so long as employee remains eligible to participate in cafeteria plan and, if applicable, the spouse or dependent still qualifies as a tax dependent for health coverage purposes)	Increase election to pay increased cost of coverage if COBRA qualifying event occurs with respect to the employee, spouse or dependents (so long as employee remains eligible to participate in cafeteria plan and, if applicable, the spouse or dependent still qualifies as a tax dependent for health coverage purposes)	N/A

1. Exception also likely applies when a qualifying event under state insurance continuation law occurs.

HSA Contribution Election Changes

If employee contributions to a Health Savings Account (HSA) are included under the cafeteria plan, participants must be allowed to prospectively change HSA contribution elections on at least a monthly basis. Employer's plan can be more generous (e.g., authorize prospective election changes at any time).

If the participant becomes ineligible to make HSA contributions, the participant may prospectively revoke his or her salary reduction election for HSA contributions.

Mistakes

Election errors are not addressed in the Section 125 regulations. Based on informal comments by IRS representatives, in limited circumstances a cafeteria plan may allow a participant to revoke a mistaken election. For example, an election made where it is impossible for the employee to benefit from the election (e.g., an employee with no dependents makes a DCAP election) likely could be revoked. When an election is revoked due to mistake, it is treated as if it were not made in the first place (i.e., the employee is put back in the position in which he/she would have been had the mistaken election not be made). Because mistakes are not addressed in the regulations and the test for determining whether an election was a mistake is not clear, employers considering permitting an election change due to mistake are encouraged to discuss the situation with qualified legal counsel.





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