

Memorandum

To: Vermont School Business Managers
From: VEHI
RE: Cafeteria Plans & Open Enrollment Periods for Covered Benefits
Date: May 2014

This memorandum is for school districts that:

Operate **Section 125 Cafeteria Plans** on either a calendar or fiscal year basis, and do not want to risk losing the tax-favored status of those plans or incurring unfavorable tax consequences arising from a violation of the IRS's rules governing such plans and open enrollment periods for any employee benefit elections subject to Cafeteria Plans.

School districts that do not offer a Section 125 Cafeteria Plan, and therefore offer benefits on a post-tax basis, do not need to act on the advice herein at this time.

As you know, VEHI has a partnership with Gallagher Benefits Services, Inc., to assist it with ACA-compliance obligations. Recently, in the course of a review of VEHI communications, Gallagher brought to our attention a potential issue involving Cafeteria Plans and open enrollment periods that needs to be reviewed in those districts that offer such plans.

School districts that have tax-advantaged **Cafeteria Plans** (IRS Code Section 125), which allow employees to pay for certain benefits with pre-tax dollars, are limited by the IRS to just **ONE** open enrollment period per plan year. Open enrollment must coincide with the plan year. This rule pertains not just to VEHI plans, but to any employee benefit that is paid for with pre-tax dollars under a Cafeteria Plan.

Historically VEHI/BCBSVT have permitted employees to move for any reason between our health insurance plans or change their level of coverage effective once every 12 months on either January 1 or July 1, without a change in the employee's family or employment status (status change). This practice may have lead employers and employees to engage in practices that are inconsistent with their Cafeteria Plan. If this is the case, districts must make necessary adjustments as soon as possible.

So, districts should check their Plan document to determine if the plan is set up on a **January 1 calendar year** or **July 1 fiscal year**. The district's Cafeteria Plan Document is the controlling document, superseding any communication or practice allowed by VEHI or BCBSVT.

Under Section 125, the IRS allows employees to change benefit elections at times other than the open enrollment period if there is a **status change** (marriage, divorce, death, the birth or adoption of a child, etc.). This rule is standard and is NOT changing going forward.

For Further Information:

If your district offers a Cafeteria Plan that confers pre-tax benefits, the open enrollment period for benefits that fall under that plan—health insurance, dental insurance, vision, etc.—must be aligned with your official plan year. **VEHI and Gallagher Benefits Services prepared the attached memos for your attention. Please pay close attention to the memo that corresponds with the plan year for your district and take any necessary steps to fully comply with IRS rules.**

IMPORTANT:

Employees will no longer be permitted either to change plans mid-year due to a plan's loss of grandfathered status, as this is not a status change under the IRS's rules. VEHI permitted mid-year changes of this sort on a trial basis during the 2013-2014 school year; however, it will no longer be allowed after June 30, 2014. (VEHI will continue to assist schools and employees whose plans lose grandfathered status in the future and who wish to enroll in a grandfathered plan option, if one is available in their district, by providing advance notification and transition guidance.)

If you have questions, contact one of the following VEHI trust administrators: Laura Soares (223-5040, ex. 208, or laura@vsbit.org); Joe Zimmerman (223-5040, ex. 209), or joe@vsbit.org; or Mark Hage (223-6375, ex. 2420), or mhage@vtnea.org.