

# Cafeteria Plan Election Change Matrix

2024



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# CONTENTS

Introduction to Midyear Election Changes .....	3
<b>Chart 1</b> .....	<b>6</b>
Election Changes for Healthcare Plans Including Health FSAs	
<b>Chart 2</b> .....	<b>33</b>
Election Changes for Healthcare Plans Except Health FSAs	
<b>Chart 3</b> .....	<b>38</b>
Election Changes for Dependent Care Assistance Plans (DCAPs)	



## Introduction to Midyear Election Changes

Cafeteria plan elections must generally be made before a period of coverage begins and remain unchanged during the period of coverage. The period of coverage is usually the 12-month cafeteria plan year, but may be a shorter period of time for a newly eligible employee or a new or short cafeteria plan year. Cafeteria plans may not have a plan year that exceeds 12 months in length. Election changes must be permitted annually with the exception of separate dental and vision plans. Informal IRS guidance has indicated that two-year elections may be used for separate dental and vision plans.

Cafeteria plan election rules are a MAXIMUM — not a floor. An employer's written cafeteria plan document may be more restrictive than the regulations, but not more expansive. Technically, a cafeteria plan may be written to prohibit any election change except for Health Savings Account (HSA) elections. **Cafeteria plans must permit election changes at least monthly for HSA elections.** Although other laws, such as HIPAA, require health plans to allow enrollment in medical coverage, such as adding coverage for a new spouse following a marriage, an employer could require the election change be made on an after-tax basis. As a practical matter, virtually all cafeteria plans permit HIPAA special enrollment changes to be made on a pre-tax basis.

Insurer rules may be similar to IRS rules, but they are not identical. Group health insurance contracts almost universally permit employees to enroll themselves and/or family members in the following circumstances:

- They first become eligible
- At annual enrollment
- For HIPAA special enrollment events (not required for HIPAA-excepted benefits such as separate dental, vision or health Flexible Spending Accounts (FSAs))
- To comply with a Qualified Medical Child Support Order (QMCSO)

Beyond those events, employers should check their insurance contracts to determine which events will permit an employee to enroll. Insurer rules for disenrollment are almost always more liberal. For example, an insurance contract may permit an employee to drop coverage at any time. While the insurer contract may permit disenrollment under the insurance contract, the IRS rules may not permit a change in the salary reduction amount. Employers need to keep both IRS and insurer rules (as well as any internal administrative concerns the employer may have) in mind when establishing, modifying or using election change rules. Not adhering to the IRS rules could jeopardize the status of the cafeteria plan, whereas not adhering to insurer rules could result in unintended self-insurance. In general, the HIPAA special enrollment rules are binding on the employer's group health plan and the insurance company under an insured plan. Other rules, such as continuation during an FMLA leave and QMCSO rules, are binding on the employer and employer's group health plan, but not the insurance company.



However, in situations where an employer is required to provide certain coverage — such as a QMCSO — virtually all insurers will voluntarily follow the minimum requirements of those rules. Not as many are willing to be more liberal with respect to those rules or to permit all of the changes that the IRS will permit. Stop-loss insurers are not required to provide HIPAA special enrollments because stop-loss insurance is typically not classified under state insurance law as health insurance. Following are examples of situations where a insurer's underwriting rules may be more restrictive than the IRS (i.e., the IRS will permit a new election, the insurer will not).

An employee with a child who is not enrolled in the employer's plan gets married and acquires a stepchild. The employee, new spouse and new stepchild have HIPAA special enrollment rights. The employee's previously eligible child does not. The IRS rules would permit the employee to enroll the previously eligible child while many insurer contracts will not.

An employee and spouse covered under an HMO get divorced and the employee wants to both drop coverage for the now ex-spouse and change to the PPO. The employee would be permitted to drop the spouse. The ex-spouse's loss of eligibility would not permit the employee to change to the PPO.

An employee becoming eligible for Medicare upon reaching age 65 may want to enroll in Medicare and drop the employer's coverage for himself, but keep his 63-year-old spouse on the employer's plan. Under IRS rules, the employee could drop coverage for himself (but not his spouse). However, insurance contracts (including stop loss) almost never permit enrollment of a dependent when the employee is not enrolled. (There are some exceptions under retiree health plans and in situations involving a surviving spouse.)

IRS rules permit a rehired employee to be treated as a new employee with new elections if the employee's rehire date is more than 30 days after his termination date. Many insurer contracts have a definition of rehire that uses a 3 or 6-month time frame, and as a result, the insurance contract may only permit reinstatement of prior coverage.

An employee wants to make a change in coverage based on changes to the spouse's employer's plan (or during the spouse's open enrollment). IRS rules would permit corresponding changes, but many insurer contracts will not.





## A midyear election change is NOT an open enrollment

An employee experiencing one of the permitted events may make certain changes as a result of the event, but only certain changes. For example, if an employer adds or improves a dental plan midyear, the employee may be able to enroll in the new or improved dental plan, but would not be permitted to make any changes to his medical election or his health FSA.

Before permitting an employee to make an election change during the plan year, the employer should ask the following questions:

1	<b>Is the requested change permitted by the IRS?</b> Is the event experienced by the employee included in the IRS list of events that would permit a new election? Does the event apply to the particular benefit the employee is asking to change (e.g., medical coverage or health FSA)?	4	<b>Does the plan document or insurance policy governing the applicable benefit allow the requested election change?</b> For example, does the medical insurer (or stop-loss insurer) permit an employee to enroll under their contract midyear if it's during the spouse's employer's open enrollment period?
2	<b>Does the election change satisfy the consistency rule?</b> Generally, the event must affect eligibility for the benefit. For example, if an employee with employee plus spouse major medical coverage is divorced, the now ex-spouse is no longer eligible for health coverage under the plan, and the employee may be permitted to change from employee plus spouse to single coverage. It would not be consistent for the employee to drop all coverage since the employee's eligibility has not changed — only the employee's ex-spouse's eligibility has changed.	5	<b>Has there been proper documentation?</b> Has the participant provided a signed or electronic certification that the event occurred or that the change is consistent with the event? If coverage is being dropped because of a change in status that results in a gain in eligibility under another plan, has the participant provided any certification that coverage has been or will be obtained under the other plan? Is there any reason to believe that any certification is not correct?
3	<b>Does the cafeteria plan document permit the requested change?</b> Does the plan impose any limitations on the election change that can be made for the event? Does the plan allow an employee to elect to commence benefits midyear when the employee was not previously in any of the cafeteria plan benefits?	6	<b>Does the election change comply with time limits outlined in the plan?</b> Is the request for a prospective change, or is it a permitted retroactive election change for a HIPAA special enrollment for birth, adoption or placement for adoption?

A matrix outlining permitted election changes under IRS rules is contained in several charts on the following pages. [Chart #1](#) contains change in status rules that apply to all health plans, including health FSAs. [Chart #2](#) shows change in cost or coverage rules that apply to health plans other than health FSAs. [Chart #3](#) shows the rules that apply to Dependent Care Assistance Plans (DCAPs). For all charts, the term "spouse" includes both same-sex and opposite-sex spouses whose marriages are recognized by the federal government. The children of federally recognized same-sex spouses have the same enrollment rights as the children of opposite-sex spouses.

Following the charts are sections that address the rules for life and disability insurance and domestic/civil union partners and their children.

## Chart 1

# Election Changes for Healthcare Plans Including Health FSAs



## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
HIPAA Special Enrollments (not required for HIPAA-excepted benefits)					
Marriage	<ul style="list-style-type: none"><li>• Enrollment of employee</li><li>• Enrollment of new spouse</li><li>• Enrollment of newly eligible dependents</li><li>• Drop of coverage for dependents if enrolling in spouse's plan</li><li>• Drop of coverage for employee if enrolling in spouse's plan</li></ul>	Required	<ul style="list-style-type: none"><li>• Enrollment in FSA</li><li>• Increase in dollar election</li><li>• Decrease in dollar election (if newly eligible under spouse's plan)</li><li>• Drop in coverage (if newly eligible under spouse's plan)</li></ul>	<p>HIPAA special enrollment rights apply to the employee, new spouse and newly eligible dependents, but not previously eligible dependents.</p> <p>Entering into a domestic partnership is not a marriage and does not create a HIPAA special enrollment right. However, see increase in dependents on page 15 and the rules for domestic partners on page 44.</p>	<div>Yes</div> <div>No</div>
Birth, adoption or placement for adoption	<ul style="list-style-type: none"><li>• Enrollment of employee</li><li>• Enrollment of spouse</li><li>• Enrollment of newly born/adopted/placed child</li></ul>	Required	<ul style="list-style-type: none"><li>• Enroll in FSA</li><li>• Increase in dollar election</li></ul>	<p>Coverage must be retroactive to the date of birth/adoption.</p> <p>HIPAA special enrollment rights do not apply to previously eligible dependent children, but the IRS tag-along rule may apply (see page 15).</p> <p>Domestic partners do not have HIPAA special enrollment rights, but children born/adopted/placed with the domestic partner do.</p> <p>To drop coverage for the employee, spouse, or dependents and enroll in another employer's plan, see page 24.</p>	<div>Yes</div> <div>No</div>

**Note:** This document does not include any of the rules for adoption assistance or 401(k) plans.  
CAFETERIA PLAN ELECTION CHANGE MATRIX

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
HIPAA Special Enrollments (not required for HIPAA-excepted benefits)					
<b>Loss of coverage under spouse's plan</b>  For example: <ul style="list-style-type: none"><li>• Divorce/legal separation</li><li>• Death</li><li>• Spouse's termination of employment</li><li>• Spouse's change in employment status</li></ul>	<ul style="list-style-type: none"><li>• Enrollment of employee</li><li>• Enrollment of individual losing coverage (may be subject to waiver restrictions — see comments)</li></ul>	Required	<ul style="list-style-type: none"><li>• Enrollment in FSA</li><li>• Increase in dollar election</li></ul>	HIPAA special enrollment is available to the employee and other individuals who lose eligibility under the spouse's plan  An employer is permitted to limit special enrollment rights to individuals who actually were enrolled in another plan at the time of the coverage waiver. To enforce this provision, the plan may require a written statement from an employee who is waiving coverage that the other coverage is the reason for the waiver. If the employer uses and communicates this requirement and the employee does not provide it, the plan is not required to offer a HIPAA special enrollment if the other coverage is lost.	<b>Yes</b> <b>No</b>



## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
HIPAA Special Enrollments (not required for HIPAA-excepted benefits)					
<p><b>Loss of coverage under another employment-based group health plan</b></p> <p>For example:</p> <ul style="list-style-type: none"><li>• 26-year-old employee loses coverage under parent’s plan</li><li>• Domestic partnership ends</li><li>• Employee’s 22-year-old child terminates employment</li></ul>	<ul style="list-style-type: none"><li>• Enrollment of employee</li><li>• Enrollment of individual losing coverage (may be subject to waiver restrictions — see comments)</li></ul>	Required	<ul style="list-style-type: none"><li>• Enrollment in FSA</li><li>• Increase in dollar election</li></ul>	<p>HIPAA special enrollment based on the loss of other coverage is available to the employee and other individuals who are eligible under the plan, including domestic and civil union partners and their children.</p> <p>An employer is permitted to limit special enrollment rights to individuals who actually were enrolled in another plan at the time of the coverage waiver. To enforce this provision, the plan may require a written statement from an employee who is waiving coverage that the other coverage is the reason for the waiver. If the employer uses and communicates this requirement and the employee does not provide it, the plan is not required to offer a HIPAA special enrollment if the other coverage is lost.</p>	<p><b>Yes</b></p> <p><b>No</b></p>

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
HIPAA Special Enrollments (not required for HIPAA-excepted benefits)					
<p><b>Loss of eligibility for individual health insurance</b></p> <p>For example:</p> <ul style="list-style-type: none"><li>• Drops individual product line</li><li>• Drops specific plan design such as PPO</li><li>• Drops out of individual market</li><li>• Stops offering a product at the end of the year</li></ul>	<ul style="list-style-type: none"><li>• Enrollment of employee</li><li>• Enrollment of individual losing coverage (may be subject to waiver restrictions)</li></ul>	Required	<ul style="list-style-type: none"><li>• Enrollment in FSA</li><li>• Increase in dollar election</li></ul>	<p>HIPAA special enrollment based on the loss of other coverage is available to the employee and other individuals who are eligible under the plan, including domestic and civil union partners and their children.</p> <p>An employer is permitted to limit special enrollment rights to individuals who actually were enrolled in another plan at the time of the coverage waiver. To enforce this provision, the plan may require a written statement from an employee who is waiving coverage that the other coverage is the reason for the waiver. If the employer uses and communicates this requirement and the employee does not provide it, the plan is not required to offer a HIPAA special enrollment if the other coverage is lost.</p> <p>Loss of coverage for reasons such as failure to pay premium or fraud does not create a special enrollment right.</p>	<p><b>Yes</b></p> <p><b>No</b></p>

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
HIPAA Special Enrollments (not required for HIPAA-excepted benefits)					
Exhaustion of COBRA coverage at end of 18, 29 or 36 months	<ul style="list-style-type: none"><li>Enrollment of employee</li><li>Enrollment of individual losing coverage (may be subject to waiver restrictions)</li></ul>	Required	<ul style="list-style-type: none"><li>Enrollment in FSA</li><li>Increase in dollar election</li></ul>	<p>HIPAA special enrollment based on the loss of other coverage is available to the employee and other individuals who are eligible under the plan, including domestic and civil union partners and their children.</p> <p>The HIPAA special enrollment right is only available as the result of exhaustion of the maximum COBRA duration. Voluntary termination does not give the individual special enrollment rights even if the individual is losing free COBRA coverage.</p> <p>For example, if a former employer does not charge for COBRA for three months after a layoff, there is no special enrollment with a new employer at the end of that three-month period.</p>	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
HIPAA Special Enrollments (not required for HIPAA-excepted benefits)					
Loss of Medicaid eligibility	<ul style="list-style-type: none"><li>Enrollment of employee</li><li>Enrollment of individual losing coverage</li></ul>	Required	<ul style="list-style-type: none"><li>Unclear whether permitted</li></ul>	Employees must be given at least 60 days to exercise special enrollment rights.	Yes No
Loss of SCHIP eligibility	<ul style="list-style-type: none"><li>Enrollment of employee</li><li>Enrollment of individual losing coverage</li></ul>	Required	<ul style="list-style-type: none"><li>Unclear whether permitted</li></ul>	Employees must be given at least 60 days to exercise special enrollment rights.	Yes No
Gain Medicaid premium assistance	<ul style="list-style-type: none"><li>Enrollment of employee</li><li>Enrollment of dependent</li></ul>	Required	<ul style="list-style-type: none"><li>Unclear whether permitted</li></ul>	Employees must be given at least 60 days to exercise special enrollment rights.  If already enrolled, employee may be able to reduce salary reduction election to reflect lower employee contribution.	Yes No
Gain SCHIP premium assistance	<ul style="list-style-type: none"><li>Enrollment of employee</li><li>Enrollment of dependent</li></ul>	Required	<ul style="list-style-type: none"><li>Unclear whether permitted</li></ul>	Employees must be given at least 60 days to exercise special enrollment rights.  If already enrolled, employee may be able to reduce salary reduction election to reflect lower employee contribution.	Yes No



## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
<div>Loss of coverage sponsored by a government institution</div> <div>For example:<ul style="list-style-type: none"><li>Under a Indian Tribal government plan</li><li>State health benefits risk pool, or</li><li>Foreign governmental group health plan (e.g., Canada’s provincial health program).</li></ul></div>	<div><ul style="list-style-type: none"><li>Enrollment of individual losing coverage</li></ul></div>	Yes	<div><ul style="list-style-type: none"><li>No change permitted</li></ul></div>	Not a HIPAA special enrollment	<div>Yes</div> <div>No</div>

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Gain of coverage sponsored by a government institution	<ul style="list-style-type: none"><li>No change</li></ul>	No	<ul style="list-style-type: none"><li>No change permitted</li></ul>		Yes No
Divorce, annulment, legal separation and/or death of spouse	<ul style="list-style-type: none"><li>Drop of coverage for spouse losing eligibility</li><li>Drop of coverage for stepchildren losing eligibility</li></ul>	Yes	<ul style="list-style-type: none"><li>Decrease dollar election</li><li>End of enrollment</li></ul>	<p>Legal separation and annulment are events permitting a change only in states that recognize them.</p> <p>In the event of divorce, the employee's natural or adopted children do not lose eligibility under parents' plans, but the employee's stepchildren would generally lose eligibility.</p> <p>An employee enrolled in the spouse's group health plan who loses coverage under the spouse's plan may be eligible for a HIPAA special enrollment (see page 8).</p>	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Increase in the number of dependents other than birth, adoption or placement for adoption	<ul style="list-style-type: none"><li>Enrollment of newly eligible dependent(s)</li></ul>	No	<ul style="list-style-type: none"><li>Enrollment</li><li>Increase in dollar election</li></ul>	Newly eligible dependent and other dependents that previously were not covered (under the tag-along rule) may be enrolled under IRS rules.	Yes No
Decrease in number of dependents  For example: <ul style="list-style-type: none"><li>Death</li><li>Loss of eligibility under the plan (e.g., child reaches age 26)</li></ul>	<ul style="list-style-type: none"><li>Drop of coverage for dependent losing eligibility</li></ul>	No	<ul style="list-style-type: none"><li>Decrease in dollar election</li><li>End of enrollment</li></ul>	If the event causing loss is a COBRA qualifying event and the child is the employee's dependent, the employee may make a change in the salary reduction amount to pay for COBRA coverage pre-tax.	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
<p><b>Gain in eligibility due to employee's change in employment status</b></p> <p>For example:</p> <ul style="list-style-type: none"><li>• Class (e.g., salaried to hourly)</li><li>• Hours (e.g., part-time to full-time)</li><li>• Union (e.g., non-union to union)</li></ul>	<ul style="list-style-type: none"><li>• Enrollment of newly eligible employee after allowing new plans to be selected</li></ul>	Select from newly available options	<ul style="list-style-type: none"><li>• Enrollment if newly eligible</li></ul>	May only change election where eligibility for a benefit/plan affected (e.g., if different medical options for salaried and hourly or different contributions, make new elections). If eligibility has not changed (e.g., same health FSA plan for salaried and hourly), no health FSA change permitted.	<p><b>Yes</b></p> <p><b>No</b></p>



## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
<p><b>Loss of eligibility due to employee’s change in employment status</b></p> <p>For example:</p> <ul style="list-style-type: none"><li>• Termination</li><li>• Strike/lockout</li><li>• Class (e.g., hourly to salaried)</li><li>• Hours (e.g., full-time to part-time)</li><li>• Union (e.g., union to non-union)</li></ul>	<ul style="list-style-type: none"><li>• Cancellation of coverage</li></ul>	<p>Yes, if the change in employment results in eligibility for new or different plan option, then the employee can select the new or different plan or option. (see comments)</p>	<ul style="list-style-type: none"><li>• End of enrollment</li></ul>	<p>If the change in employment status results in eligibility for a new or different plan (or new coverage option), then employee can select the new or different plan.</p>	<p><b>Yes</b></p> <p><b>No</b></p>

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
<p><b>Reduction in hours of service, where employee expected to average less than 30 hours per week</b></p> <p>For example:</p> <ul style="list-style-type: none"><li>• Strike/lockout</li><li>• Class (e.g., hourly to salaried)</li><li>• Hours (e.g., full-time to part-time)</li><li>• Union (e.g., union to non-union)</li></ul>	<ul style="list-style-type: none"><li>• Cancellation of coverage</li></ul>	No	<ul style="list-style-type: none"><li>• No change permitted</li></ul>	<p>The employee must be in a position that was expected to average at least 30 hours of service per week, and there was a change so that the employee will reasonably be expected to average less than 30 hours of service per week. Eligibility for the employer’s health plan need not be affected by the change in the expected hours of service.</p> <p>The cancellation of coverage under the employer’s health coverage corresponds to the intended enrollment of the employee (and any related individuals) in another plan that provides minimum essential coverage. Coverage under the new plan must be effective no later than the first day of the second month following the month that the employer coverage is canceled.</p> <p>Employer may rely on a reasonable representation of an employee and related individual who have enrolled or intend to enroll in another plan.</p>	<p><b>Yes</b></p> <p><b>No</b></p>

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Employee seeks to enroll in a Qualified Health Plan (QHP) when the employee is eligible for a Marketplace special enrollment	<ul style="list-style-type: none"><li>Cancellation of coverage</li></ul>	No	<ul style="list-style-type: none"><li>No change permitted</li></ul>	An employee seeking to revoke employee's election to enroll in a Marketplace QHP may do so if the employee is eligible for Marketplace special enrollment period. The revocation of the election for employer coverage must correspond to the intended enrollment of the employee (and any related individuals) in a QHP through the Marketplace. Coverage under the Marketplace QHP must be effective no later than the day immediately following the last day the original coverage was revoked. For additional insight on Marketplace special enrollments, go to <a href="http://www.healthcare.gov">www.healthcare.gov</a> .	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Employee seeks to enroll in a QHP during the Marketplace’s annual open enrollment	<ul style="list-style-type: none"><li>• Cancellation of coverage</li></ul>	No	<ul style="list-style-type: none"><li>• No change permitted</li></ul>	The revocation of the election for employer coverage must correspond to the intended enrollment of the employee (and any related individuals) in a QHP through the Marketplace. Coverage under the Marketplace QHP must be effective no later than the day immediately following the last day the original coverage was revoked.	Yes No



## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Dependent seeks to enroll in a QHP when dependent is eligible for Marketplace special enrollment	<ul style="list-style-type: none"><li>Revocation of coverage for dependent(s) moving to Marketplace</li></ul>	No	<ul style="list-style-type: none"><li>No</li></ul>	<p>Only an employee's tax dependents (e.g., spouse and dependent children) are eligible for the election change. For example, an employee's child who is age 25 may be eligible for the plan, but might not be the employee's tax dependent.</p> <p>Beginning January 1, 2023, a cafeteria plan may allow an employee seeking to revoke a dependent's election to enroll in a Marketplace QHP to do so if the dependent is eligible for Marketplace special enrollment period. The revocation of the election for employer coverage for the dependent(s) must correspond to the intended enrollment of the dependents in a QHP through the Marketplace. Coverage under the Marketplace QHP must be effective no later than the day immediately following the last day the original coverage was revoked. For additional insight on Marketplace special enrollments, go to <a href="http://www.healthcare.gov">www.healthcare.gov</a>.</p>	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Dependent seeks to enroll in a QHP during the Marketplace annual enrollment	<ul style="list-style-type: none"><li>Revocation of coverage for dependent(s)</li></ul>	No	<ul style="list-style-type: none"><li>No change permitted</li></ul>	Only an employee's tax dependents (e.g., spouse and dependent children) are eligible for the election change. For example, an employee's child who is age 25 may be eligible for the plan, but might not be the employee's tax dependent. Beginning January 1, 2023, a cafeteria plan may allow an employee to revoke coverage for a dependent when the dependent is eligible for a Marketplace open enrollment event. The revocation of the election for employer coverage must correspond to the intended enrollment of the dependent(s) in a QHP through the Marketplace. Coverage under the Marketplace QHP must be effective no later than the day immediately following the last day the original coverage was revoked.	Yes No
Rehire employee within 30 days of termination	<ul style="list-style-type: none"><li>Reinstatement of old election</li><li>Denial of reinstatement until the next plan year</li></ul>	No	<ul style="list-style-type: none"><li>Reinstatement of prior coverage</li><li>Denial of reinstatement until the next plan year</li></ul>	If another event occurs that permits a change (which must be specified in the plan), then a rehired employee may be able to make new selections.	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Rehire employee 30 or more days after termination	<ul style="list-style-type: none"><li>Denial of reinstatement until next plan year</li><li>Reinstatement of previous election</li><li>Enrollment employee, allowing new plan selections</li></ul>	Yes	<ul style="list-style-type: none"><li>Enrollment</li><li>Reinstatement</li><li>Denial of reinstatement until the next plan year</li></ul>	After 30 days, rehired employees are treated as new employees under the cafeteria plan election rules.	Yes No
Gain in eligibility under another plan because spouse or dependent commences employment	<ul style="list-style-type: none"><li>Drop coverage if employee enrolls in the other plan</li><li>Drop coverage for spouse, dependent and/or other family members enrolling in the other plan</li></ul>	No	<ul style="list-style-type: none"><li>Decrease in dollar election</li><li>End of enrollment</li></ul>	Corresponding changes required.  Employee may not drop coverage unless employee (and/or family members) actually enrolls in the other plan.	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Dependent gains eligibility under employer’s plan	<ul style="list-style-type: none"><li>Enrollment of newly eligible dependent</li><li>Drop coverage for employee, spouse, and/or dependents if enrolling in spouse’s plan</li></ul>	No	<ul style="list-style-type: none"><li>Enrollment</li><li>Increase in dollar election</li></ul>	Group health plans that provide coverage for children must extend eligibility to age 26 without condition (age 26 mandate). When this event is used to enroll children, it is only applicable to children older than age 26 or children outside the age 26 mandate.  This event may also be used to drop medical coverage if the same individuals will enroll in the spouse’s plan, or when enrolling in excepted benefits, like dental and vision plans, that are not subject to the age 26 mandate, and can place conditions on eligibility for all children (e.g., school enrollment after age 19).	Yes No
Change in residence that causes employee to gain eligibility  For example: <ul style="list-style-type: none"><li>Employee moves into an HMO’s service area</li></ul>	<ul style="list-style-type: none"><li>Enrollment of newly eligible employee and dependents</li></ul>	No	<ul style="list-style-type: none"><li>No change permitted</li></ul>	Previously eligible dependents may be added under the tag-along rule in addition to newly eligible spouse and dependents.  Employee may only enroll in the plan if newly eligible. No other changes permitted.	Yes No



## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
<b>Change in residence that causes employee to lose eligibility</b>  For example: <ul style="list-style-type: none"><li>Employee moves out of an HMO's service area</li></ul>	<ul style="list-style-type: none"><li>Drop of coverage if moving out of network area</li><li>Change to another similar option</li></ul>	Yes	<ul style="list-style-type: none"><li>No change permitted.</li></ul>	HIPAA special enrollment rights may also apply due to a loss in coverage. See loss of coverage on page 9.	<b>Yes No</b>
<b>Change in residence that causes dependent to gain eligibility</b>	<ul style="list-style-type: none"><li>Addition of newly eligible dependent</li></ul>	No	<ul style="list-style-type: none"><li>No change permitted</li></ul>	<p>The change in residence must change the dependent's eligibility to enable the employee to change the election.</p> <p>The ACA prohibits group health plans from placing a residence condition on children under age 26. Despite the ACA prohibition, some HMOs might be designed to permit children moving into the HMO service area to enroll. It may be possible to use the significant change in coverage rules to permit enrollment of the children.</p>	<b>Yes No</b>

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Change in residence that causes dependent to lose eligibility	<ul style="list-style-type: none"><li>Drop of coverage for dependent that loses eligibility</li></ul>	Change to another option that provides coverage to both employee and dependent	<ul style="list-style-type: none"><li>Decrease in dollar election</li><li>End of enrollment</li></ul>	<p>The change in residence must change the dependent's eligibility to enable the employee to change the election.</p> <p>The ACA prohibits group health plans from placing a residence condition on children under age 26. Despite the ACA prohibition, some HMOs might be designed to limit benefits for children living outside the HMO service area. It may be possible to use the significant coverage curtailment with a loss of coverage, on page 37.</p> <p>HIPAA special enrollment rights may also apply due to a loss of eligibility for coverage. See loss of coverage on page 9.</p>	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Commencement of paid leave of absence (non-FMLA) with a loss of eligibility	<ul style="list-style-type: none"><li>Cancellation of coverage (reinstate on return)</li></ul>	No	<ul style="list-style-type: none"><li>End of enrollment</li></ul>	<p>May cancel coverage.</p> <p>Paid leave includes periods when an employee is receiving replacement income such as salary continuation, short-term disability and long-term disability benefits.</p>	Yes No
Commencement of paid leave of absence (non-FMLA) without loss of eligibility	<ul style="list-style-type: none"><li>No change</li></ul>	No	<ul style="list-style-type: none"><li>No change permitted</li></ul>	Because there is no loss of eligibility, no changes are permitted.	Yes No
Commencement of unpaid leave of absence (non-FMLA) with loss of eligibility	<ul style="list-style-type: none"><li>Cancellation of coverage (reinstate on return)</li></ul>	No	<ul style="list-style-type: none"><li>End of enrollment</li></ul>	May cancel coverage.	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Status Changes - these are the only categories of status changes that are permitted					
Return after paid leave of absence (non-FMLA) (gain eligibility)	<ul style="list-style-type: none"><li>Reinstatement of previous coverage</li></ul>	No	<ul style="list-style-type: none"><li>Reinstatement with blended dollar election</li><li>Enroll with new dollar amount (see comments)</li></ul>	<p>May reinstate if eligibility was lost upon commencement of leave. Health FSAs may reinstate with blended dollar election or new short period.</p> <p>For health FSAs, employee has the choice to reinstate prior election or prorated reduction. For example, an employee with a two-month unpaid FMLA and a \$1,200 election amount could continue the \$1,200 or \$1,000 election (10/12 x \$1,200).</p>	Yes No
Return after unpaid leave of absence (non-FMLA) (gain eligibility)	<ul style="list-style-type: none"><li>Reinstatement of previous coverage</li></ul>	No	<ul style="list-style-type: none"><li>Reinstatement if eligibility was lost</li><li>Enroll with new dollar amount (see comments)</li></ul>	<p>May reinstate if eligibility was lost upon commencement of leave. FSAs may reinstate with new dollar amount – short period.</p> <p>For health FSAs, employee has the choice to reinstate prior election or prorated reduction. For example, an employee with a two-month unpaid FMLA and a \$1,200 election amount could continue the \$1,200 or \$1,000 election (10/12 x \$1,200).</p>	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Government Programs/Legal					
Commencement of paid FMLA leave of absence	<ul style="list-style-type: none"><li>Continuation of existing election see comments</li><li>Cancellation of coverage</li></ul>	No	<ul style="list-style-type: none"><li>Continuation of existing election</li><li>End of enrollment</li></ul>	An employer may require continuation of health coverage during paid FMLA if continuation is required for paid non-FMLA leave.	Yes No
Commencement of unpaid FMLA leave of absence	<ul style="list-style-type: none"><li>Continuation of existing coverage</li><li>Cancellation of coverage (reinstate on return)</li></ul>	No	<ul style="list-style-type: none"><li>End of enrollment</li></ul>	If coverage is canceled, the employee must be permitted to reinstate coverage upon return from unpaid FMLA leave.	Yes No
Return after paid FMLA leave of absence	<ul style="list-style-type: none"><li>Continuation of coverage</li><li>Reinstatement of previous coverage</li></ul>	No	<ul style="list-style-type: none"><li>Continuation of coverage</li><li>Reinstatement of previous coverage</li><li>Election of a pro rata reduction in dollar election</li></ul>	<p>No change permitted after returning from a paid leave unless another event which would permit a change occurs.</p> <p>Coverage may be reinstated whether lost due to nonpayment or by employee election.</p>	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
Government Programs/Legal					
Return after unpaid FMLA leave of absence	<ul style="list-style-type: none"><li>Continuation of coverage</li><li>Reinstatement of previous coverage</li></ul>	No	<ul style="list-style-type: none"><li>Reinstatement with prior dollar election</li><li>Election of a pro rata reduction in dollar election</li></ul>	<p>Employer may require an employee to be reinstated to his or her election upon return from leave if employees who return from a non-FMLA leave are required to be reinstated in their elections.</p> <p>Employee may make new election only if another event, such as birth of a child, would permit a new election.</p> <p>For health FSA, employee has the choice to reinstate prior election or prorated reduction. For example, an employee with a two-month unpaid FMLA and a \$1,200 election amount could continue the \$1,200 or make a \$1,000 election (10/12 x \$1,200).</p>	Yes No
Judgment, decree, QMCSO, National Medical Support Notice (NMSN) or other legal proceeding	<ul style="list-style-type: none"><li>Must adhere to court order</li></ul>	Must adhere to court order	<ul style="list-style-type: none"><li>Must adhere to court order</li></ul>	Under QMCSO or NMSN rules, a plan must enroll child (and employee, if necessary) in the plan option specified in the order or notice.	Yes No

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
<b>Entitlement to Medicare</b>	<ul style="list-style-type: none"> <li>Drop of coverage for affected individual</li> </ul>	No	<ul style="list-style-type: none"> <li>Decrease in dollar amount</li> <li>End of enrollment</li> </ul>	An election may only be made upon actual enrollment (i.e., entitlement) into Medicare. Gaining Medicare eligibility only (e.g., reaching age 65) is not sufficient to allow an election change.	<b>Yes</b> <b>No</b>
<b>Loss of Medicare Eligibility</b>	<ul style="list-style-type: none"> <li>Enrollment of affected individual</li> </ul>	Yes	<ul style="list-style-type: none"> <li>Enrollment</li> <li>Increase in dollar election</li> </ul>	<p>Not a common event. Could occur if individual entitled to Medicare on the basis of disability or ESRD after a specified recovery period.</p> <p>Could allow employee to add coverage of family members as well under tag-along rule.</p>	<b>Yes</b> <b>No</b>
<b>Entitlement to Medicaid</b> (not gain of premium assistance)	<ul style="list-style-type: none"> <li>Drop coverage for affected individual</li> </ul>	No	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	Gain of Medicaid with premium assistance is a HIPAA special enrollment (see page 12).	<b>Yes</b> <b>No</b>

## Election Changes for Healthcare Plans Including Health FSA

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option (e.g., HMO, PPO)	Health FSA		
<b>Gain eligibility for SCHIP</b> (not gain of premium assistance)	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	No	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	Gaining eligibility for SCHIP premium assistance is a HIPAA special enrollment (see page 12).	<b>Yes</b> <b>No</b>
<b>Gain eligibility for premium assistance in Marketplace</b>	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	No	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	Under current regulations, this is not a status change that would permit an election change.	<b>Yes</b> <b>No</b>
<b>Drop Medicare Coverage</b> (not loss of eligibility)	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	No	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	This is not a change in status that would permit a new election unless there is a loss of eligibility for Medicare. Voluntarily terminating coverage by discontinuing premium payments is not a loss of eligibility.	<b>Yes</b> <b>No</b>
<b>Lose eligibility for premium assistance in Marketplace</b>	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	No	<ul style="list-style-type: none"> <li>No change permitted</li> </ul>	Under current regulations, this is not a status change that would permit an election change.	<b>Yes</b> <b>No</b>



## Chart 2

# Election Changes for Healthcare Plans Except Health FSAs



## CHART 2

# Election Changes for Healthcare Plans Except Health FSA

*No Health FSA Changes are Permitted Based on Cost or Coverage Change*

Event	Permitted Change(s) to Reflect:	Ability to Change Coverage Option	Comments	Event Applies to the Plan
<i>Change in Cost</i>				
<b>Insignificant increase</b>	<ul style="list-style-type: none"> <li>Automatic increase in cost</li> </ul>	No	A cost increase may be the result of employee action (e.g., switching from full-time to part-time while remaining eligible for plan coverage) or employer action (e.g., a change in the amount of contributions required from employees). The plan document must require the automatic election change in the event of an insignificant cost change.	<b>Yes</b> <b>No</b>
<b>Insignificant decrease</b>	<ul style="list-style-type: none"> <li>Automatic decrease in cost</li> </ul>	No	A cost decrease may be the result of employee action or employer action. The plan document must require the automatic election change in the event of an insignificant cost change.	<b>Yes</b> <b>No</b>
<b>Significant increase</b>	<ul style="list-style-type: none"> <li>Payment of increased contributions</li> <li>Election of another similar, less expensive plan</li> <li>Drop of coverage if similar plan is not available</li> </ul>	Yes, but limited (see comments)	<p>The IRS has not provided guidance on what is a “significant” change in coverage. Employers must look at the facts and circumstances to determine if the increase is significant.</p> <p>Not an “open” enrollment. Only specified changes permitted. For example, if medical cost increased, employee may select less expensive medical. The employee may not make other changes such as drop dental coverage.</p>	<b>Yes</b> <b>No</b>

## Election Changes for Healthcare Plans Except Health FSA

Event	Permitted Change(s) to Reflect:	Ability to Change Coverage Option	Comments	Event Applies to the Plan
<i>Change in Cost</i>				
<b>Significant decrease</b>	<ul style="list-style-type: none"> <li>• Enrollment</li> <li>• Payment of decreased cost</li> <li>• Enrollment in a more expensive option</li> </ul>	Yes, but limited (see comments)	<p>The IRS has not provided guidance on what is a “significant” change in cost. Employers must look at the facts and circumstances to determine if the decrease is significant.</p> <p>Not an “open” enrollment. Only specified changes permitted. For example, if medical cost decreases employee may select a more expensive medical option. The employee may not make other changes such as add dental coverage.</p>	<b>Yes No</b>
<i>Change in Coverage</i>				
<b>Another employer’s open enrollment</b>	<ul style="list-style-type: none"> <li>• Drop coverage due to enrollment in spouse’s plan</li> <li>• Enrollment due to drop of coverage in spouse’s plan</li> </ul>	Yes, but limited (see comments)	<p>Usually this is related to a spouse’s open enrollment. Corresponding changes required (e.g., enrollment in spouse’s plan if dropping employer’s plan).</p> <p>Other employer’s plan must be a cafeteria plan and have a different plan year.</p>	<b>Yes No</b>

## Election Changes for Healthcare Plans Except Health FSA

Event	Permitted Change(s) to Reflect:	Ability to Change Coverage Option	Comments	Event Applies to the Plan
<i>Change in Coverage</i>				
<b>Plan coverage improvement</b>  For example <ul style="list-style-type: none"> <li>Addition of a new option under the plan</li> </ul>	<ul style="list-style-type: none"> <li>Enrollment</li> <li>Election of improved plan option</li> </ul>	Yes, but limited (see comments)	Employees may enroll in the option even if they did not previously enroll in another plan option.  May enroll dependent(s) not previously covered.  Employees enrolled in an existing option may change to the new option.  Not an open enrollment. No other changes permitted. For example, if a new option is added to the medical plan, employees may not make changes to other health coverage such as dental or vision.	<b>Yes</b>  <b>No</b>
<b>New plan</b>	<ul style="list-style-type: none"> <li>Enrollment in new plan</li> </ul>	Yes, but limited (see comments)	May enroll employees and dependents in the new plan.  Not an open enrollment. No other changes permitted. For example, if an employer offers dental for the first time, employees may enroll in the dental plan, but may not make changes in other plans such as a new medical plan election.	<b>Yes</b>  <b>No</b>

## Election Changes for Healthcare Plans Except Health FSA

Event	Permitted Change(s) to Reflect:	Ability to Change Coverage Option	Comments	Event Applies to the Plan
<i>Change in Coverage</i>				
<b>Significant coverage curtailment without loss of coverage</b>	<ul style="list-style-type: none"> <li>Revocation of election</li> <li>Election of coverage, on a prospective basis, that provides similar coverage</li> </ul>	Yes, but limited (see comments)	<p>A significant curtailment in coverage is defined as an overall reduction in coverage provided to participants under the plan so as to constitute reduced coverage to participants generally. This includes a significant increase in employees' plan deductibles, copayments or out-of-pocket cost-sharing limits.</p> <p>Might involve substantial changes to providers in a network (e.g., 1/3 of the hospitals leave the network), but would not be available for situations such as the loss of a single physician even if that physician is the employee's primary care physician.</p>	<b>Yes No</b>
<b>Significant coverage curtailment with loss of coverage</b>	<ul style="list-style-type: none"> <li>Election of a similar plan</li> <li>Drop coverage, but only if a similar plan is not available</li> </ul>	Yes, but limited (see comments)	<p>Curtailment must apply overall and be considered a virtual loss of coverage.</p> <p>This includes: elimination of a benefits option or an HMO ceasing to be available in the coverage area. It could also include reduction in benefits for a specific condition or treatment that participant is undergoing.</p> <p>This event may allow an employee to change coverage options when a dependent's coverage is reduced by moving outside an HMO service area but the dependent retains plan eligibility.</p>	<b>Yes No</b>



## Chart 3

# Election Changes for Dependent Care Assistance Plans (DCAPs)



## Election Changes for Dependent Care Assistance Plans (DCAPs)

Event	Permitted Change(s) to Reflect	Comments	Event Applies to the Plan
<b>Change in dependent care provider</b>  For example <ul style="list-style-type: none"> <li>Change in residence affects available care providers</li> </ul>	<ul style="list-style-type: none"> <li>Enrollment in DCAP</li> <li>Increase in dollar election</li> <li>Decrease in dollar election</li> <li>End of enrollment in DCAP</li> </ul>	Consistency rule applies (e.g., employee may change salary reduction to reflect enrollment if a new provider becomes available or the end of enrollment if losing existing provider).  Election change is permitted even if provider switches from day care center to relative.	<b>Yes</b>  <b>No</b>
<b>Change in the cost of day care</b>	<ul style="list-style-type: none"> <li>Increase in dollar election</li> <li>Decrease in dollar election</li> </ul>	Election change is permitted only if the provider is not related to the employee.	<b>Yes</b>  <b>No</b>
<b>Change in the number of hours of dependent care and care costs</b>	<ul style="list-style-type: none"> <li>Increase in dollar election</li> <li>Decrease in dollar election</li> </ul>	Consistency rule would apply (e.g., an employee could increase an election if she increased her work hours and needed more hours of day care for her child).	<b>Yes</b>  <b>No</b>
<b>Marriage</b>	<ul style="list-style-type: none"> <li>Enrollment in DCAP</li> <li>Increase in dollar election</li> <li>Decrease in dollar election</li> <li>End of enrollment in DCAP</li> </ul>	Enrolling or increasing the dollar election can occur to accommodate newly qualified dependents.  Ending enrollment may be needed if new spouse is not employed.	<b>Yes</b>  <b>No</b>

## Election Changes for Dependent Care Assistance Plans (DCAPs)

Event	Permitted Change(s) to Reflect	Comments	Event Applies to the Plan
<b>Divorce, annulment or legal separation</b>	<ul style="list-style-type: none"> <li>• Enrollment in DCAP</li> <li>• Increase in dollar election</li> <li>• Decrease in dollar election</li> <li>• End of enrollment in DCAP</li> </ul>	Enrolling or increasing the dollar election can occur to accommodate newly qualified dependents. For example, an employee's ex-spouse begins employment and can no longer provide care while the employee works.	Yes No
<b>Birth or adoption</b>	<ul style="list-style-type: none"> <li>• Enrollment in DCAP</li> <li>• Increase in dollar election</li> </ul>	An increase in the dollar election can occur to accommodate newly eligible dependents.	Yes No
<b>Child attains the age of 13</b>	<ul style="list-style-type: none"> <li>• Decrease in dollar election</li> <li>• End of enrollment in DCAP</li> </ul>	<p>Child ceases to be a qualified dependent on his/her 13th birthday. After age 13, the child must be physically or mentally incapable of self-support to be a qualified dependent.</p> <p>A decrease in dollar election is permitted to account for a dependent losing eligibility. May end enrollment if no more eligible dependents.</p>	Yes No
<b>Child over the age of 13 becomes disabled</b>	<ul style="list-style-type: none"> <li>• Enrollment in DCAP</li> <li>• Increase in dollar election</li> </ul>	After age 13, the child must be physically or mentally incapable of self-support to be a qualified dependent.	Yes No



## Election Changes for Dependent Care Assistance Plans (DCAPs)

Event	Permitted Change(s) to Reflect	Comments	Event Applies to the Plan
<b>Previously disabled child over the age of 13 recovers from the disability</b>	<ul style="list-style-type: none"> <li>End of enrollment in DCAP</li> <li>Decrease in dollar election</li> </ul>	A decrease in dollar election is permitted to account for a dependent losing eligibility. May end enrollment if no more eligible dependents.	Yes No
<b>Change in employment status that causes the employee to gain eligibility</b>  For example: <ul style="list-style-type: none"> <li>Part-time to full-time</li> </ul>	<ul style="list-style-type: none"> <li>Enroll in DCAP</li> <li>Increase in dollar election</li> </ul>	Employee may gain eligibility for dependent care or may have increased need (e.g., such as a change from part-time to full-time).	Yes No
<b>Change in employment status or termination that causes an employee to lose eligibility</b>  For example: <ul style="list-style-type: none"> <li>Unpaid leave</li> <li>Strike</li> <li>Lockout</li> <li>Layoff</li> </ul>	<ul style="list-style-type: none"> <li>End of enrollment in DCAP</li> <li>Decrease in dollar election</li> </ul>	Employee will have no qualified expenses during a leave of absence (paid or unpaid).	Yes No

## Election Changes for Dependent Care Assistance Plans (DCAPs)

Event	Permitted Change(s) to Reflect	Comments	Event Applies to the Plan
<b>Begin FMLA or other leave (paid or unpaid)</b>	<ul style="list-style-type: none"> <li>Decrease in dollar election</li> <li>End of enrollment in DCAP</li> </ul>	Employee may have qualified expenses during short, temporary absences of two consecutive weeks or less. After the two weeks, the employee will have no qualified expenses during the remainder of the leave.	Yes No
<b>Return from FMLA or other leave</b> (paid or unpaid)	<ul style="list-style-type: none"> <li>Reinstatement of coverage</li> </ul>		Yes No
<b>Return from strike, lockout, or layoff</b>	<ul style="list-style-type: none"> <li>Reinstatement of coverage</li> </ul>		Yes No

## Election Changes for Dependent Care Assistance Plans (DCAPs)

Event	Permitted Change(s) to Reflect	Comments	Event Applies to the Plan
<b>Rehire employee within 30 days</b>	<ul style="list-style-type: none"> <li>• Reinstatement of prior election</li> <li>• Denial of reinstatement until the next plan year</li> </ul>		<b>Yes</b> <b>No</b>
<b>Rehire employee after 30 days or more</b>	<ul style="list-style-type: none"> <li>• Selection of new election</li> <li>• Reinstatement of prior election</li> <li>• Denial of reinstatement until the next plan year</li> </ul>		<b>Yes</b> <b>No</b>
<b>Commencement of employment by spouse</b>	<ul style="list-style-type: none"> <li>• Enrollment in DCAP</li> <li>• Increase in dollar election</li> </ul>	Enrolling or increasing the dollar election can occur to accommodate newly qualified dependents.	<b>Yes</b> <b>No</b>
<b>Loss of eligibility under another plan due to spouse's termination or change in employment status</b>	<ul style="list-style-type: none"> <li>• Enrollment in DCAP</li> <li>• Increase in dollar election</li> </ul>	Employee may choose to enroll if coverage was provided under the spouse's DCAP.	<b>Yes</b> <b>No</b>



## Election Changes for Life and Disability Insurance

Most changes in status permit election changes for life and disability benefits, even when eligibility is not affected, to reflect the following: enrollment of employee, increase in coverage, decrease in coverage or end of enrollment. For example, in the event of marriage, an employee may either increase or decrease their life insurance coverage. In the event of a divorce, they may either increase or decrease their life insurance. However, when an employee is rehired within 30 days, the only permitted changes are reinstatement of the prior election or denial of reinstatement until the next plan year. When an employee is rehired after 30 days, the following changes are permitted: selection of new plans, reinstatement of a prior election or denial of reinstatement until the next plan year.

Note: Life or disability insurance that is provided on an after-tax basis outside the cafeteria plan is not subject to the IRS election change rules. Insurer rules will apply.

## Rules for Domestic/Civil Union Partners and their Children

In general, the rules for a domestic/civil union partner depend on whether the domestic/civil union partner is the employee's tax dependent. If the domestic/civil union partner is the employee's tax dependent, then the rules for dependents included in Charts #1, #2 and #3 above would apply. If the domestic/civil union partner is not the employee's tax dependent, then coverage for the domestic/civil union partner must be paid for on an after-tax basis.

Children of a domestic/civil union partner will most likely not have the necessary family relationship to be considered a tax dependent of the employee. The children would need to meet either the qualifying child or qualifying relative definitions in the Internal Revenue Code, which can be difficult due to the requirement that the individual not be another person's qualifying child. Additionally, some states recognize the non-biological/non-adoptive domestic partner as the stepchild of the employee. In that case, the IRS treats the child as the stepchild for federal tax purposes, thereby allowing pretax contributions for that child under age 27.

HIPAA special enrollment rights do not apply upon entering a domestic/civil union partnership. In contrast, special enrollment rights are available in the event of marriage. However, if a plan covers domestic/civil union partners, the employee may be able to enroll the new domestic/civil union partner when the relationship begins based on the rules that permit a new election when a dependent (as defined by the plan) becomes newly eligible under the plan

Special enrollment rights would be available for children based on a birth, adoption or placement for adoption of a child by the employee or the employee's domestic partner. In the event of birth, adoption or placement for adoption, the child and employee (but not the domestic/civil union partner) would have a HIPAA special enrollment right. In contrast, HIPAA special enrollment rights apply to individuals who are defined as dependents under the plan — both domestic/civil union partners and children — if those individuals lose coverage under another group health plan or who lose health insurance.



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