

Cafeteria Plan (§ 125) Change in Status/Special Enrollment Common Events

Event	Permitted Changes to Salary Reduction Agreement to Reflect:			Comments	Event Applies to the Plan
	Health Plan	Ability to Change Coverage Option	Healthcare FSA		
Marriage <i>(Special Enrollment)</i>	<ul style="list-style-type: none"> • Enrollment of employee • Enrollment of new spouse • Enrollment of newly eligible dependents • Drop of coverage for dependents if enrolling in spouse's plan • Drop of coverage for employee if enrolling in spouse's plan 	Required	<ul style="list-style-type: none"> • Enrollment in FSA • Increase in dollar election • Decrease in dollar election (if newly eligible under spouse's plan) • End enrollment (if newly eligible under spouse's plan) 	<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 and the rules for domestic partners.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Birth, adoption, or placement for adoption <i>(Special Enrollment)</i>	<ul style="list-style-type: none"> • Enrollment of employee • Enrollment of spouse • Enrollment of newly born/adopted/placed child 	Required	<ul style="list-style-type: none"> • Enroll in FSA • Increase in dollar election 	<p>HIPAA special enrollment rights do not apply to other dependents previously eligible to enroll, however they may be allowed to enroll if not covered (under the IRS tag-along rule). May only be permitted if provided for in specific plan provision.</p> <p>Children born/adopted/placed with the employee <u>and</u> domestic partner have HIPAA special enrollment rights (as will the employee), but not the domestic partner.</p> <p>Coverage must be retroactive to the date of birth/adoption.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Divorce, annulment, legal separation, and/or death of spouse <i>(Special Enrollment)</i>	<ul style="list-style-type: none"> Drop coverage for spouse losing eligibility Drop coverage for stepchildren losing eligibility 	Yes	<ul style="list-style-type: none"> Decrease dollar election End enrollment 	<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 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.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Decrease in number of tax dependents (For example: <ul style="list-style-type: none"> Death Loss of eligibility under the plan –e.g., child reaches age 26) 	<ul style="list-style-type: none"> Drop coverage for dependent losing eligibility 	Yes	<ul style="list-style-type: none"> Decrease dollar election End enrollment 	<p>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.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Loss of coverage under spouse or dependent's plan <i>(Special Enrollment)</i> (For example: <ul style="list-style-type: none"> Divorce/legal separation Death Spouse/dependent's termination of employment Spouse/dependent's change in employment status) 	<ul style="list-style-type: none"> Enrollment of employee Enrollment of individual losing coverage (may be subject to waiver restrictions) 	Required	<ul style="list-style-type: none"> Enrollment in FSA Increase in dollar election 	<p>HIPAA special enrollment is available to the employee and other individuals who lose eligibility under the spouse or dependent's plan</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>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Gain in eligibility under another plan because spouse or dependent commences employment	<ul style="list-style-type: none"> Drop coverage employee if enrolls in the other plan Drop coverage for spouse, dependent, and/or other family members enrolling in the other plan 	Yes	<ul style="list-style-type: none"> Decrease dollar election End of enrollment 	<p>Corresponding changes required.</p> <p>Employee may not drop coverage unless employee actually enrolls in the other plan.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Loss of eligibility due to employee's change in employment status <ul style="list-style-type: none"> Termination Strike/lock out Class (e.g., hourly to salaried) Hours (e.g., full-time to part-time) Union (e.g., union to non-union) 	<ul style="list-style-type: none"> Cancellation of coverage 	Yes	<ul style="list-style-type: none"> End of enrollment 		<input type="checkbox"/> Yes <input type="checkbox"/> No
Another employer's open enrollment	<ul style="list-style-type: none"> Drop coverage due to enrollment in spouse's plan Enrollment due to drop of coverage in spouse's plan 	Yes, but limited	N/A	<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>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Exhaustion of COBRA coverage at end of 18, 29, or 36 months <i>(Special Enrollment)</i>	<ul style="list-style-type: none"> Enrollment of employee Enrollment of individual losing coverage (may be subject to waiver restrictions) 	Required	<ul style="list-style-type: none"> Enrollment in FSA Increase in dollar election 	<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 of COBRA 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>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Changes Based on Marketplace Coverage, Premium Tax Credit					
Employee seeks to enroll in a QHP when the employee is eligible for a Marketplace Special enrollment	<ul style="list-style-type: none"> Revocation of coverage 	No	<ul style="list-style-type: none"> No change permitted 	<p>An employee seeking to revoke his 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.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Employee seeks to enroll in a QHP during the Marketplace's annual open enrollment	<ul style="list-style-type: none"> Revocation of coverage 	No	<ul style="list-style-type: none"> No change permitted 	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.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Leave of Absence - FMLA					
Commencement of <u>paid</u> FMLA leave of absence	<ul style="list-style-type: none"> Continuation of existing election 	No	<ul style="list-style-type: none"> Continuation of existing election 	Unless another event occurs, such as birth of a child, employees may not make any changes during a paid FMLA leave. Paid leave includes periods when an employee is receiving replacement income such as salary continuation, short term disability, and long term disability benefits. Also applies to other paid leaves.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Commencement of <u>unpaid</u> FMLA leave of absence	<ul style="list-style-type: none"> Continuation of existing election Cancellation of coverage (reinstate on return) 	No	<ul style="list-style-type: none"> End enrollment 	If coverage is cancelled, the employee must be permitted to reinstate coverage upon return from unpaid FMLA leave.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Return after <u>paid</u> FMLA leave of absence	<ul style="list-style-type: none"> Continuation of existing election 	No	<ul style="list-style-type: none"> Continuation of existing election 	No change permitted after returning from a paid leave unless another event which would permit a change occurs.	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Return after <u>unpaid</u> FMLA leave of absence	<ul style="list-style-type: none"> Reinstatement of previous election 	No	<ul style="list-style-type: none"> Reinstatement of previous dollar election Election of a pro-rata reduction in dollar election 	<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 healthcare FSA, employee has the choice to reinstate prior election or pro-rated 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>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Leave of Absence – NON-FMLA</i>					
Commencement of <u>paid</u> leave of absence with loss of eligibility	<ul style="list-style-type: none"> Cancellation of coverage (reinstate on return) 	No	<ul style="list-style-type: none"> End of enrollment 	<p>May cancel coverage if eligibility lost; otherwise no change permitted.</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>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Commencement of <u>paid</u> leave of absence without loss of eligibility.	<ul style="list-style-type: none"> No change 	No	<ul style="list-style-type: none"> No change permitted 	<p>Because there is no loss of eligibility, no changes are permitted.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Commencement of <u>unpaid</u> leave of absence with loss of eligibility	<ul style="list-style-type: none"> Cancellation of coverage (reinstate on return) 	No	<ul style="list-style-type: none"> End of enrollment 	<p>May cancel coverage if eligibility lost, otherwise no changes permitted.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Return after <u>paid</u> leave of absence (gain eligibility)	<ul style="list-style-type: none"> Reinstatement of previous coverage 	No	<ul style="list-style-type: none"> Reinstatement of with blended dollar election Enroll with new dollar amount (short period) 	<p>May reinstate if eligibility was lost upon commencement of leave. FSA may reinstate with blended dollar election or new short period.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Return after <u>unpaid</u> leave of absence (gain eligibility)	<ul style="list-style-type: none"> Reinstatement of previous coverage 	No	<ul style="list-style-type: none"> Reinstatement of blended dollar election Enroll with new dollar amount (short period) 	May reinstate if eligibility was lost upon commencement of leave. FSA may reinstate with blended dollar election or new short period.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Government Programs/Legal</i>					
Judgment, decree, QMCSO, NMSN, or other legal proceeding	<ul style="list-style-type: none"> Adherence to court order 	Must adhere to court order	<ul style="list-style-type: none"> Adherence to court order 	Under QMCSO or NMSN, a plan must enroll child (and employee if necessary) in the plan option specified in the Order or Notice.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Eligibility for Medicare	<ul style="list-style-type: none"> No change 	No	<ul style="list-style-type: none"> No change permitted 	No change based on eligibility for Medicare.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Entitlement to Medicare	<ul style="list-style-type: none"> Drop coverage for affected individual 	No	<ul style="list-style-type: none"> Decrease in dollar amount End of enrollment 	Requires actual enrollment in Medicare, not just gain in eligibility.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Mid-Year Cost of Coverage Changes</i>					
Insignificant increase	<ul style="list-style-type: none"> Automatic increase in cost 	No	N/A	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.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Significant increase	<ul style="list-style-type: none"> Payment of increased costs Election of another similar, less expensive plan Drop of coverage if similar plan is not available 	Yes, but limited	N/A	<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>	<input type="checkbox"/> Yes <input type="checkbox"/> No