

Cafeteria Plan Mid-Year Election Change Rules

Cafeteria Plans must follow the general principle that participant elections are irrevocable for the period of coverage (generally for the plan year). However, the IRS has recognized certain exceptions to the irrevocability rule — often referred to as mid-year election changes.

Below is a table that shows the events giving rise to possible mid-year election changes. Note that a Cafeteria Plan may be drafted to prohibit or allow all or only a limited set of permissible mid-year elections changes. Therefore, the cafeteria plan may ultimately determine if an event allows a mid-year election change. Often the cafeteria plan document will contain catch-all apply at all to

Health Flexible Spending Accounts (H-FSA).

Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
CHANGE IN STATUS					
Change in Employee's Legal Marital Status					
Gain Spouse (marriage). Note: HIPAA special enrollment rights are separate and may also apply so please check both	Employee may enroll or increase election for newly eligible spouse and dependent children (under tag-along rule, preexisting dependents also may be enrolled), coverage option (e.g., HMO to PPO) change may be made; employee may revoke or decrease employee's or dependent's coverage only when such coverage becomes effective or is increased under the spouse's plan.	Same as previous column.			

Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
<p>Lose Spouse (divorce, legal separation, annulment, death of spouse) (see loss of dependent eligibility below for discussion of dependent eligibility loss following divorce, separation, etc.). Note: HIPAA special enrollment rights may also apply.</p>	<p>Employee may revoke election only for spouse; coverage option (e.g., HMO to PPO) change may be made. Employee may elect coverage for self or dependents who lose eligibility under spouse's plan if such individual loses eligibility as a result of the divorce, legal separation, annulment, or death (under tag-along rule, any dependents may be enrolled so long as at least one dependent has lost coverage under spouse's plan).</p>	<p>Same as previous column.</p>	<p>Employee may decrease election to reflect loss of spouse's eligibility. Employee may enroll or increase election where coverage is lost under spouse's health plan.</p>	<p>Employee may enroll or increase to accommodate newly eligible dependents (e.g., due to death of spouse) or cease coverage if eligibility is lost (e.g., due to dependent now residing with ex-spouse).</p>	<p>Employee may enroll, increase, decrease, or cease coverage even when eligibility is not affected.</p>
<p>Change in the Number of Employee's Dependents</p>					

Gain Dependent (birth, adoption). Note: HIPAA special enrollment rights may also apply.

Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
Event Causing Employee's Dependent to Satisfy or Cease to Satisfy Eligibility Requirements					
Event by Which Dependent Satisfies Eligibility Requirements Under Employer's Plan (e.g., attaining a specified age)	Employee may enroll or increase election for newly eligible dependent. In addition, other previously eligible dependents may also be enrolled under tag-along rule; coverage option (e.g., HMO to PPO) change may be made.	Same as previous column.	Employee may increase election or enroll only if dependent gains eligibility under health FSA.	Employee may increase election or enroll to take into account expenses of affected dependent.	Employee may enroll, increase, decrease, or cease coverage even when eligibility is not affected.
Event by Which Dependent Ceases to Satisfy Eligibility Requirements Under Employer's Plan (e.g., attaining a specified age)	Employee may decrease or revoke election only for affected dependent; coverage option (e.g., HMO to PPO) change may be made.	Same as previous column.	Employee may decrease or revoke election to take into account ineligibility of expenses of affected dependent, but only if eligibility is lost. If dependent remains a tax dependent and the health FSA provides that the dependent's expenses remain eligible for reimbursement, then the employee could increase health FSA election.	Employee may decrease or drop election to take into account expenses of affected dependent.	Employee may enroll, increase, decrease, or cease coverage even when eligibility is not affected.
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Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
<p>Move Causes Loss of Eligibility (e.g., employee or dependent moves outside HMO service area) Note: HIPAA special enrollment rights may also apply.</p>	<p>Employee may revoke election or make new election if the change in residence affects the employee's, spouse's, or dependent's eligibility for coverage option.</p>	<p>Same as previous column.</p>	<p>No change allowed, even if underlying health coverage change occurs.</p>	<p>N/A. DCAP eligibility is not generally affected by place of residence.</p>	<p>Employee may enroll, increase, decrease, or cease coverage even when eligibility is not affected.</p>

Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
	health coverage purposes.				
Change in Coverage Under Other Employer Cafeteria Plan or Qualified Benefits Plan					
Other Employer Plan Increases Coverage	Employee may decrease or revoke election for employee, spouse, or dependents if employee, spouse, or dependents have elected or received corresponding increased coverage under other employer plan.	Same as previous column.	No change permitted.	Employee may decrease or revoke election for employee, spouse, or dependents if employee, spouse, or dependents have elected or received corresponding increased coverage under other employer plan.	Same as previous column.
Other Employer Plan Decreases or Ceases Coverage	Employee may enroll or increase election for employee, spouse, or dependents if employee, spouse, or dependents have elected or received corresponding decreased coverage under other employer plan. Though unclear, it appears that tag-along concepts may apply.	Same as previous column.	No change permitted.	Employee may enroll or increase election for employee, spouse, or dependents if employee, spouse, or dependents have elected or received corresponding decreased coverage under other employer plan.	Same as previous column.
Open Enrollment Under Other Employer Plan/Different Plan Year	Corresponding changes can be made under employer's plan.	Corresponding changes can be made under employer's plan.	No change permitted.	Corresponding changes can be made under employer's plan.	Corresponding changes can be made under employer's plan.
Medicare or Medicaid Entitlement					
Employee, Spouse, or Dependent Enrolled in Employer's Accident or Health Plan Becomes Entitled to Medicare or Medicaid (other than	Employee may elect to cancel or reduce coverage for employee, spouse, or dependent, as cQ-0.006				

Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
coverage solely for pediatric vaccines)		prohibited from dropping such coverages.			
Employee, Spouse, or Dependent Loses Eligibility for Medicare or Medicaid (other than coverage solely for pediatric vaccines). Note: In the event of a loss of coverage under Medicaid, HIPAA special enrollment rights may also apply	Employee may elect to commence or increase coverage for employee, spouse, or dependent, as applicable. While unclear, tag-along concepts might apply, allowing the employee to add coverage for family members as well.	Though not entirely clear, we believe that an employee should be able to commence or increase dental or vision coverage. But there is an argument that an employee would be prohibited from electing such coverages.	Employee may commence or increase election under employer plan.	No change permitted.	No change permitted.

Judgments, Decrees, or Orders

Order That Requires Coverage for the Child Under Employee's Plan

Employee may change election to provide coverage for the child.

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Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
	employees to make such corresponding changes.			of the plan require employees to make such corresponding changes.	
Significant Cost Changes	<p>Increase: Employee may increase election correspondingly or may revoke election and elect coverage under another benefit package option providing similar coverage. If no option providing similar coverage is available, employee may revoke election.</p> <p>Decrease: Employees may decrease election correspondingly or may elect coverage (even if had not participated before) with decreased cost and drop election for similar coverage option. Though unclear, it appears that tag-along concepts may apply.</p>	Same as previous column.	No change permitted.	Same as major medical column for significant cost increase, except no change can be made when the cost change is imposed by a dependent care provider who is a relative of the employee.	Same as major medical
Reduction of Hours					

Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, O&E, CEMC of
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Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
special enrollment period for this event.	coverage; coverage option change (e.g., HMO to PPO) may be made. Though unclear, it appears that tag-along concepts may apply.	portability rules. In rare cases where plan is subject to HIPAA portability rules, then same as previous column.			

Special Enrollment Due to Eligibility for State

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Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
Exchange special or open enrollment period)	Exchange coverage that is effective no later than the day after the last day of the calendar year for employer-provided				

Event	Major Medical	Dental and Vision	Health FSA	DCAP	Employee Group Term Life, AD&D, and Disability Coverage
<p>Health Savings Account (HSA)</p> <p>Pre-Tax HSA Contributions May Be Changed Monthly (No event needed)</p>	<p>leave if employees who return from a non-FMLA leave are required to be reinstated in their elections.</p> <p>No change.</p>	<p>No change.</p>	<p>or at a level reduced pro rata for the missed contributions. In either case there is no coverage for claims incurred while the coverage was not in force.</p> <p>No change.</p>	<p>leave if employees who return from non-FMLA leave are required to be reinstated in their elections.[‡]</p> <p>No change.</p>	<p>No change.</p>

Note. The cafeteria plan and the rules related to the cafeteria plan are distinct from the underlying medical plan and other benefit offerings. As an initial matter, the mid-year change has to be permissible on the underlying plan, usually the major medical plan. For example, in order for an individual to add coverage or add a dependent to the plan mid-year, the underlying medical plan must allow that change. The only changes a major medical plan is required to permit are those associated with HIPAA special enrollment rights. Other mid-year changes are generally optional for the plan. Be sure to verify that the underlying plan allows the requested change. If it does, then evaluate the cafeteria plan rules to determine if an associated mid-year election change is permissible.

Timing Issues. All mid-year election changes, with exception of HIPAA special enrollment rights, must be made on a prospective basis subject to the consistency rule. The consistency rule generally provides that the request change must make sense in light of the event that allows a mid-year election change. The deadlines by which an individual must notify the plan of an event that justifies a mid-year election change is a matter of plan design. Many plans require that such change requests be made within .8.6 w 0.4



Employee Benefits Compliance: