Cafeteria Plan Qualified Status Changes

Cafeteria plans are regulated by the Internal Revenue Service and provide that elections must be irrevocable during the coverage period with specified instances when an employee may make a permitted mid-year election change otherwise known as qualified status changes.

There are four factors in determining if an election change is permitted. All four factors must be satisfied for it to be a qualified status change. Do the regulations recognize the event in question? Is the requested change consistent with the event? Does the cafeteria plan document permit the change? And does the underlying benefit plan (i.e. medical, dental, etc.) permit the change. This means that even though the first three factors may allow the change to the premium, if the underlying benefit plan does not allow the change it cannot be made. Permitted election changes include the following:

- Death, divorce or legal separation causing a loss of coverage under spouse’s plan;
- A dependent ceasing to be a dependent as defined by the plan;
- Termination of employment or reduction in hours which causes a loss of coverage;
- Change in residence resulting in a person no longer living or working in the HMO’s service area;
- Change in cost of coverage that allows an employer to automatically increase or decrease the employee contributions;
- Significant cost changes that permit an employee to change election, including adding or dropping coverage and switching plans;
- Significant coverage change resulting in a reduction in benefits or addition of benefit options;
- Change under another employers plan may allow for new election or revoking of previous election;
- Loss of coverage through a governmental or educational institution such as State Children's Health Insurance Program (CHIP) or state high risk pool;
- A judgment, decree or order such as changes in legal guardianship or qualified medical child support order (QMCSO);
- Medicare or Medicaid entitlement;
- Family Medical Leave Act (FMLA) allows an employee to revoke election or choose another option for the period of leave.

The Affordable Care Act allows two additional status changes that are optional and must be adopted by the employer/plan sponsor. The first is when an employee who was reasonably expected to average 30 or more hours per week during a stability period, is now expected to average less than 30 hours per week. The reduction of hours during a stability period would not result in a loss of eligibility for coverage. The employee may revoke coverage for themselves and any covered dependent with the intention of enrolling in other minimum essential coverage, which should be effective by the first day of the second month following the drop of coverage. The other status change is an employee becoming eligible to enroll during a Marketplace Special or Open Enrollment period during a stability period in which eligibility is not lost. Employees and covered dependents must intend to enroll in Marketplace coverage that is effective the day after coverage is dropped. In both of these situations the employer must have a reasonable representation of the intent to enroll in other coverage.

The Health Insurance Portability and Accountability Act (HIPAA) regulations also allow for two types of mid-year special enrollment election changes that must be permitted. Under the first one the employee and dependents who previously declined coverage and then lose coverage elsewhere may enroll. The second allows for enrollment of the employee, spouse and new dependents due to marriage, birth, adoption or placement for adoption.
Election coverage changes must generally be made within 30 days of the event. Employers may allow a longer period of time, which is helpful for employers who have multiple locations, but must be allowed for in the plan documents. Enrollment for events resulting in a loss of eligibility under a Medicaid plan, state CHIP or for eligibility for state premium assistance from a Medicaid or state CHIP program must extend the enrollment timeframe to 60 days.

With the exception of HIPAA Special Enrollment events, qualified status changes are permitted but not required. The cafeteria plan document controls whether these premium changes are permitted. When determining whether an event actually qualifies for a coverage change employers/plan sponsors should refer to their cafeteria plan document and underlying benefit plan documents.

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