



## What Employers Need to Know Right Now About Health Care Reform

### **IRS Allows Additional Section 125 Change in Status Events**

On September 18, 2014, the Internal Revenue Service (IRS) issued [Notice 2014-55](#) which allows employers to amend their Section 125 plans to recognize several new change in status events.

#### **Open Enrollment in the Health Insurance Marketplace**

Prior to this new notice, an opportunity to enroll in the health insurance Marketplace (or “exchange”) was not considered a change in status event. This made it difficult for employees in non-calendar year plans to move between a group health plan and the Marketplace since Marketplace coverage generally operates on a calendar year.

Effective immediately, an employer may treat open enrollment for Marketplace coverage as a change in status event, and allow an employee and other covered dependents to drop group medical coverage mid-year to enroll in a Marketplace plan. Marketplace coverage must begin on the day after coverage under the employer’s plan ends.

This change in coverage under the employer’s plan may only relate to dropping medical coverage – an employee may not change his or her health flexible spending account (HFSA) contributions, dental coverage, or vision coverage because Marketplace coverage is being elected. The employer may rely on the employee’s statement that the individuals dropping coverage are moving to Marketplace coverage – the employer does not need to obtain proof that Marketplace coverage was put into place.

#### **Special Enrollment in the Health Insurance Marketplace**

Prior to this notice, special enrollment in the health insurance Marketplace was not considered a change in status event. This meant that an employee who experienced a special enrollment event (such as marriage, birth, or adoption) might be able to enroll the new family member in Marketplace coverage mid-year but could not move other family members to Marketplace coverage. Effective immediately, an employer may treat special enrollment in Marketplace coverage as a change in status event, and allow an employee and other covered dependents to drop group medical coverage mid-year to enroll in a Marketplace plan. Marketplace coverage must begin on the day after coverage under the employer’s plan ends.

This change may only relate to dropping medical coverage – an employee may not change his or her HFSA contributions, dental coverage, or vision coverage because Marketplace coverage is being elected.

The employer may rely on the employee's statement that the individuals dropping coverage are moving to Marketplace coverage – the employer does not need to obtain proof that Marketplace coverage was put into place.

### **Revocation Due to Reduction in Hours of Service**

The third new permitted change in status event is designed to address issues that may arise if the employer chooses to measure hours using the lookback (measurement and stability periods) method of determining hours for purposes of meeting the employer-shared responsibility requirements. In this situation, to avoid employer-shared responsibility penalties, the employer must offer the employee coverage throughout the following stability period if the employee averaged 30 or more hours per week during the measurement period, even if the employee's hours are reduced below 30 hours per week. Maintaining the same coverage despite lower income may cause a financial hardship to the employee.

Under the new change in status event, if the employee remains eligible for group medical coverage, even though he or she is now working fewer than 30 hours per week, the employee may revoke the group medical coverage election mid-year to enroll himself or herself (and any covered dependents) in either Marketplace or other employer-provided coverage. The employee may not discontinue all medical coverage, and the new coverage must provide minimum essential coverage. The employee may not change any election of dental or vision coverage or any HFSA election. The new coverage must be effective no later than the first day of the second month following the month that includes the date the original coverage is discontinued.

The employer may rely on the employee's statement that the individuals dropping coverage are moving to Marketplace or other minimum essential coverage – the employer does not need to obtain proof that this coverage was put into place.

### **Action Steps**

An employer may choose to add any, all or none of these new change in status events under its Section 125 plan. The Section 125 plan must be amended to include any new change in status event by the end of the 2015 plan year.

An employer that chooses to recognize the new change in status events may begin administering its plan to include them immediately. This means, for example, that a non-calendar year plan could allow employees to discontinue employer-provided coverage and enroll in the Marketplace for 2015. Keep in mind that while the employee and dependents may enroll in Marketplace coverage, a premium tax credit will not be available while the person remains eligible for minimum value, affordable (based on the cost of self-only) coverage offered by the employer.

If the employer chooses to include any new change in status events, that decision should be communicated to employees promptly, even though the actual plan amendment is not needed immediately.

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This information is general and is provided for educational purposes only. It is not intended to provide legal advice. You should not act on this information without consulting legal counsel or other knowledgeable advisors.