

Benefits Brief Update 12.02.2023

IRS Releases Revised Guidance Regarding New Permitted Election Change for Spouses & Dependents Wanting to Move to the Exchange

On October 11, 2022, the IRS released [Notice 2022-41](#), which added a new permitted election change for employees enrolled in a non-calendar-year Section 125 plan. The IRS has now issued a revised version of the final guidance that does not include the non-calendar year requirement. **This change is now applicable to employers who have a calendar year or non-calendar Section 125 plan.**

This newly permitted election change allows employees enrolled in family coverage to switch to a lower tier of coverage if they have dependents who become eligible to enroll in a Qualified Health Plan (QHP) through the Exchange. The attached Benefits Brief published earlier this year has been updated to provide details of this new permissive change on p.16.

This change is effective on or after January 1, 2023. Employers should review their Section 125 Plans to evaluate the need for any amendment to reflect this change, which can be adopted by the last day of the plan year beginning in 2024.

Benefits BRIEF



Permissible Mid-Year Election Changes

• March 2022 •

Mid-year election opportunities for plan participants are often a point of confusion for employers, especially when offering pre-tax contributions under a Cafeteria Plan (i.e., Section 125 Plan). In this Brief, we highlight the election change events allowed under the Internal Revenue Code for pre-tax contributions, as well as the rights under other laws and court orders.

Description of Events	Permitted Election Changes
CHANGE IN STATUS EVENTS: Gain and Loss of Dependents	
<p><u>GAIN SPOUSE</u></p> <p>The employee gains a spouse through legal marriage. Both same-sex and opposite-sex legal marriages will qualify.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none">✓ Employee may enroll or increase election to include newly-acquired spouse (and dependent children, including pre-existing dependents under “tag-along” rule)✓ Employee may change coverage option (e.g., HMO to PPO)✓ Employee may revoke or decrease election for employee or dependents, provided coverage elected is increased under spouse’s plan <p><u>Health FSA:</u></p> <ul style="list-style-type: none">✓ Employee may enroll or increase election✓ Employee may decrease election if employee or dependents become eligible under spouse’s health plan <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none">✓ Employee may enroll or increase election if acquires new dependent as a result of marriage✓ Employee may decrease election if new spouse is not employed

Description of Events	Permitted Election Changes
	<ul style="list-style-type: none"> ✓ Employee may decrease election if new spouse makes dependent care FSA election under spouse’s employer’s plan <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even when eligibility is not affected by marriage
<p><u>LOSS OF SPOUSE</u></p> <p>Employee loses spouse due to <i>divorce, legal separation</i> (if state law recognizes legal separation), <i>annulment, or death</i>.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election for spouse only ✓ Employee may change coverage option (e.g., HMO to PPO) ✓ Employee may elect coverage for employee and dependents who lose eligibility under spouse’s plan (other dependents can be enrolled under “tag-along” rule so long as one dependent loses coverage under spouse’s plan) <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election ✓ Employee may enroll or increase election if coverage is lost under spouse’s health plan <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll or increase election if dependent becomes eligible as a result of loss of spouse ✓ Employee may decrease election if dependent loses eligibility as a result of spouse <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected by loss of spouse
<p><u>GAIN DEPENDENT</u></p> <p>Employee gains a new dependent as a result of <i>birth or adoption</i>.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll or increase coverage for newly-acquired dependent (and any other dependents under “tag-along” rule) ✓ Employee may change coverage option (e.g., HMO to PPO) ✓ Employee may revoke or decrease coverage for employee or dependent if employee or dependent becomes eligible under spouse’s plan as a result of birth or adoption

Description of Events	Permitted Election Changes
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	<p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll or increase election <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll or increase election if newly-acquired dependent is eligible <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to newly-acquired dependent
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<p><u>LOSS OF DEPENDENT</u></p> <p>Employee’s dependent loses dependent status (e.g., due to death, divorce, adoption, etc.)</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may drop coverage only for dependent who loses dependent status ✓ Employee may change coverage option (e.g., HMO to PPO) <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election if dependent loses eligibility <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to loss of dependent
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CHANGE IN STATUS EVENTS: Employment Status

<p><u>CHANGE IN EMPLOYMENT STATUS OF EMPLOYEE</u></p> <p>Employee commences employment or has another change in employment status (e.g., <i>part-time to full-time</i>) that triggers eligibility for a particular benefit.</p>	<p><u>Major Medical, Dental, Vision Coverage (provided eligibility for particular benefit was gained):</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll employee, spouse or dependents ✓ Employee may change coverage option <p><u>Health FSA (provided eligibility was gained):</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll
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Description of Events	Permitted Election Changes
	<p><u>Dependent Care FSA (provided eligibility was gained):</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to change in employment status
<p><u>CHANGE IN EMPLOYMENT STATUS OF SPOUSE OR DEPENDENT</u></p> <p><i>Spouse or dependent</i> commences employment or has another change in employment status (<i>e.g., part-time to full-time</i>) that <i>triggers eligibility</i> for a particular benefit offered by spouse or dependent’s employer.</p>	<p><u>Major Medical, Dental, Vision Coverage (provided eligibility for particular benefit was gained under spouse or dependent’s plan):</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke or decrease election for employee, spouse or dependents who gain eligibility for and enroll in spouse or dependent’s plan ✓ Employee may change coverage option (e.g., HMO to PPO) <p><u>Health FSA (provided eligibility for coverage under spouse or dependent’s health plan was gained):</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election <p><u>Dependent Care FSA (provided eligibility was gained under spouse or dependent’s plan):</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election if dependent is added to spouse’s plan ✓ Employee may enroll or increase election if dependent becomes newly-eligible (e.g., previously unemployed spouse commences employment) <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to change in employment status
<p><u>CHANGE IN EMPLOYMENT STATUS OF EMPLOYEE</u></p> <p><i>Employee</i> terminates employment or has another change in employment status that <i>triggers a loss of eligibility</i> for a particular benefit (<i>e.g., full-time to</i></p>	<p><u>Major Medical, Dental, Vision Coverage (provided eligibility for particular benefit was lost):</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke or decrease election for employee, spouse or dependent who lose eligibility ✓ Employee may change coverage option (e.g., HMO to PPO)

Description of Events	Permitted Election Changes
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part-time, commencement of unpaid leave, etc.)

Note: If employee terminates and is rehired within 30 days, prior elections for all component benefits are reinstated (unless another election change event has occurred). If employee terminates and is rehired after 30 days, employee may make new elections for all component benefits.

Health FSA (provided eligibility for health coverage was lost):

- ✓ Employee may decrease election

Dependent Care FSA (provided eligibility was lost):

- ✓ Employee may decrease election

Group Term Life, AD&D, Disability Coverage:

- ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to change in employment status

CHANGE IN EMPLOYMENT STATUS OF SPOUSE OR DEPENDENT

Spouse or dependent terminates employment or has another change in employment status that **results in a loss of eligibility** for a particular benefit (e.g., full-time to part-time, commencement of unpaid leave, etc.).

Major Medical, Dental, Vision Coverage (provided eligibility for particular benefit under spouse or dependent’s plan was lost):

- ✓ Employee may enroll or increase election for employee, spouse or dependents who lose eligibility under other plan (and any other dependents, under “tag-along” rule)
- ✓ Employee may change coverage option (e.g., HMO to PPO)

Health FSA (provided eligibility for coverage under spouse or dependent’s health plan was lost):

- ✓ Employee may enroll or increase election

Dependent Care FSA (provided eligibility under spouse or dependent’s plan was lost):

- ✓ Employee may enroll or increase election
- ✓ Employee may decrease election if dependent loses eligibility as a result of change in employment status (e.g., spouse becomes unemployed)

Group Term Life, AD&D, Disability Coverage:

- ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to change in employment status

CHANGE IN STATUS EVENTS: Dependent Loss of Eligibility

DEPENDENT LOSS OF ELIGIBILITY

Major Medical, Dental, Vision Coverage (provided eligibility for particular benefit was lost):

- ✓ Employee may revoke or decrease election for affected

Description of Events	Permitted Election Changes
<p>Dependent loses eligibility for a particular benefit due to no longer satisfying eligibility criteria (e.g., attainment of a specified age).</p>	<p>dependent only</p> <ul style="list-style-type: none"> ✓ Employee may change coverage option (e.g., HMO to PPO) <p><u>Health FSA (provided dependent loses eligibility for health coverage):</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election (but only if dependent's expenses are no longer eligible for reimbursement) ✓ Employee may increase election if dependent remains a tax-dependent and expenses still qualify for reimbursement (event after other health coverage is lost) <p><u>Dependent Care FSA (provided dependent loses eligibility):</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to dependent's loss of eligibility for other coverage

CHANGE IN STATUS EVENTS: Change in Residence

<p><u>CHANGE IN RESIDENCE RESULTING IN BENEFIT ELIGIBILITY</u></p> <p>Employee, spouse or dependent changes place of residence, triggering eligibility for a particular benefit.</p>	<p><u>Major Medical, Dental, Vision Coverage (provided eligibility for particular benefit was gained):</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll or increase election for employee, spouse or dependent (and other dependents, under "tag-along" rule) who becomes newly-eligible ✓ Employee may change coverage option (e.g., HMO to PPO) <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed (unless change in residence makes employee newly-eligible for health FSA, which is rare) <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed (unless change in residence makes employee newly-eligible for dependent care FSA, which is rare) <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due change in residence
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Description of Events	Permitted Election Changes
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CHANGE IN RESIDENCE RESULTING IN LOSS OF BENEFIT ELIGIBILITY

Employee, spouse or dependent changes place of residence, **triggering loss of eligibility** for a particular benefit (e.g., employee, spouse or dependent moves out of HMO service area).

Major Medical, Dental, Vision Coverage (provided eligibility for particular benefit was lost):

- ✓ Employee may revoke election for employee, spouse or dependents who lose eligibility
- ✓ Employee may change coverage option (e.g., HMO to PPO)

Health FSA:

- ✓ No change allowed (unless change in residence makes employee ineligible for health FSA, which is rare)

Dependent Care FSA:

- ✓ No change allowed (unless change in residence makes employee ineligible for dependent care FSA, which is rare)

Group Term Life, AD&D, Disability Coverage:

- ✓ Employee may enroll, increase or decrease coverage even where eligibility is not affected due to change in residence

CHANGE IN COST EVENTS

INSIGNIFICANT CHANGE IN COST

An **insignificant increase or decrease** in the cost of a particular benefit that occurs during the coverage period.

Major Medical, Dental, Vision Coverage:

- ✓ Plan may automatically increase or decrease affected employees' elective contributions (on a reasonable and consistent basis), if so provided under the terms of the plan

Health FSA:

- ✓ No change allowed

Dependent Care FSA:

- ✓ Application somewhat unclear, but appears plan may automatically increase or decrease employees' elective contributions (on a reasonable and consistent basis), if so provided under the terms of the plan

Group Term Life, AD&D, Disability Coverage:

- ✓ Plan may automatically increase or decrease affected employees' elective contributions (on a reasonable and consistent basis), if so provided under the terms of the plan

Description of Events	Permitted Election Changes
<p><u>SIGNIFICANT INCREASE IN COST OF COVERAGE</u></p> <p>A <i>significant increase</i> in the cost of a particular benefit that occurs during the coverage period.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may increase election to correspond with cost increase ✓ Employee may revoke election and elect a similar benefit option ✓ Employee may revoke election if no similar benefit option is available <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may increase election to correspond with cost increase (unless dependent care provider is a relative of employee) ✓ Employee may elect an alternative similar coverage option (i.e., a different provider) ✓ Employee may revoke election if no alternative similar coverage option is available <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may increase election to correspond with cost increase ✓ Employee may revoke election and elect a similar benefit option ✓ Employee may revoke election if no similar benefit option is available
<p><u>SIGNIFICANT DECREASE IN COST OF COVERAGE</u></p> <p>A <i>significant decrease</i> in the cost of a particular benefit that occurs during the coverage period.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election to correspond with cost decrease ✓ Employee may enroll in option with newly-decreased cost (if previously waived) ✓ Employee may revoke election for similar benefit option and enroll in option with newly-decreased cost <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed

Description of Events	Permitted Election Changes
	<p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election to correspond with cost decrease ✓ Employee may enroll in newly-decreased cost option (if previously waived) ✓ Employee may revoke prior election and elect coverage under newly-decreased cost option (i.e., switch to cheaper provider) <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may decrease election to correspond with cost decrease ✓ Employee may enroll (if previously waived) ✓ Employee may revoke election for similar benefit option and enroll in option with newly-decreased cost

CHANGE IN COVERAGE EVENTS

CHANGE IN COVERAGE UNDER ANOTHER EMPLOYER'S PLAN

Employer- or employee-initiated ***change in coverage under another employer-sponsored Section 125 plan or qualified benefits plan*** (including a plan of the same employer or of another employer), provided (1) the other plan permits participants to make an election change that is permissible under the regulations or (2) the Section 125 plan permits participants to make an election for a coverage period that is different from the coverage period under the other plan.

Major Medical, Dental, Vision Coverage:

- ✓ **Coverage increased** under other employer plan: Employee may decrease or revoke election for employee, spouse or dependents who will receive increased coverage under other employer plan
- ✓ **Coverage decreased (or ceases)** under other employer plan: Employee may enroll or increase election for employee, spouse or dependents who will receive decreased coverage under other employer plan
- ✓ **Open enrollment** under other employer plan/different plan year (coverage period): Employee can change elections to correspond with changes made under other employer plan

Health FSA:

- ✓ No change allowed

Dependent Care FSA:

- ✓ **Coverage increased** under other employer plan: Employee may decrease or revoke election if coverage increased coverage under other employer plan
- ✓ **Coverage decreased (or ceases)** under other employer plan: Employee may enroll or increase election if coverage decreased under other employer plan

Description of Events	Permitted Election Changes
	<ul style="list-style-type: none"> ✓ Open enrollment under other employer plan/different plan year (coverage period): Employee can change elections to correspond with changes made under other employer plan <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Coverage <i>increased</i> under other employer plan: Employee may decrease or revoke election for employee, spouse or dependents who will receive increased coverage under other employer plan ✓ Coverage <i>decreased (or ceases)</i> under other employer plan: Employee may enroll or increase election for employee, spouse or dependents who will receive decreased coverage under other employer plan ✓ Open enrollment under other employer plan/different plan year (coverage period): Employee can change elections to correspond with changes made under other employer plan
<p><u>ADDITION OR SIGNIFICANT IMPROVEMENT OF BENEFIT OPTION</u></p> <p>Plan makes a <i>new</i> benefit or coverage option available, or <i>improves</i> an existing option.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election and elect new (or newly improved) benefit option ✓ Employee may enroll in new (or newly improved) benefit option (if previously waived coverage) <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election and elect new (or newly improved) benefit option—i.e., provider ✓ Employee may enroll in new (or newly improved) benefit option—i.e., provider (if previously waived coverage) <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election and elect new (or newly improved) benefit option ✓ Employee may enroll in new (or newly improved) benefit option (if previously waived coverage)

Description of Events	Permitted Election Changes
<p><u>SIGNIFICANT COVERAGE CURTAILMENT WITH A LOSS OF COVERAGE</u></p> <p>A significant coverage curtailment (benefits reduction) that <u>does not result</u> in a loss of coverage.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election for curtailed coverage and enroll in another similar benefit option <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Presumably employee may decrease election if there is a change in provider or change in dependent care hours <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election for curtailed coverage and enroll in another similar benefit option
<p><u>SIGNIFICANT COVERAGE CURTAILMENT WITHOUT A LOSS OF COVERAGE</u></p> <p>A significant coverage curtailment (benefits reduction) that <u>results in</u> a loss of coverage.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election for curtailed coverage and enroll in another similar benefit option ✓ Employee may revoke election if no similar benefit option is available <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Presumably employee may decrease election if there is a change in provider or change in dependent care hours <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election for curtailed coverage and enroll in another similar benefit option ✓ Employee may revoke election if no similar benefit option is available

Description of Events

Permitted Election Changes

OTHER LAWS AND COURT ORDERS

HIPAA SPECIAL ENROLLMENT RIGHTS

Employee, spouse or dependent experiences a HIPAA “special enrollment rights” event that allows them to enroll in group health coverage. HIPAA special enrollment rights events include a **loss of other group health coverage, acquisition of a new dependent (by birth, marriage, adoption or placement for adoption), loss of Medicaid or CHIP coverage, or eligibility for a state premium assistance subsidy under Medicaid or CHIP.**

¹*Note: Elections may be changed retroactively for special enrollment due to birth, adoption or placement for adoption.*

²*Note: There is a 60-day special enrollment period for special enrollment due to loss of Medicaid or CHIP coverage or eligibility for state premium assistance subsidy under Medicaid or CHIP.*

Major Medical, Dental, Vision Coverage:

- ✓ **Loss of other group health coverage, loss of Medicaid or CHIP coverage, or eligibility for state premium assistance subsidy under Medicaid or CHIP:** Employee may elect coverage for employee, spouse or dependent who has lost other coverage; employee may change coverage options
- ✓ **Acquisition of new dependent:** Employee may elect coverage for newly-acquired dependent (and other dependents under “tag-along” rule); employee may change coverage options

Note: Changes permitted to dental and vision coverage only if plan is subject to HIPAA portability rules

Health FSA:

- ✓ Unclear whether election change is allowed—additional IRS guidance would be welcome

Dependent Care FSA:

- ✓ No change allowed

Group Term Life, AD&D, Disability Coverage:

- ✓ No change allowed

ENTITLEMENT TO MEDICAID OR MEDICARE

Employee, spouse, or dependent becomes **entitled (enrolled)** in coverage under Part A or B of Medicare or Medicaid.

Major Medical, Dental, Vision Coverage:

- ✓ Employee may revoke or decrease election for **medical** coverage for employee, spouse or dependent who becomes entitled to Medicare or Medicaid

*Note: While not entirely clear, it appears employee should be permitted to revoke or decrease election for **dental** and **vision** coverage as well.*

Health FSA:

- ✓ Employee may decrease election

Description of Events	Permitted Election Changes
	<p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ No change allowed
<p><u>LOSS OF MEDICARE OR MEDICAID ELIGIBILITY</u></p> <p>Employee, spouse or dependent loses eligibility for Medicaid (other than coverage solely for pediatric vaccines) or Part A or Part B of Medicare.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll or increase election for medical coverage for employee spouse or dependent who loses eligibility <p><i>Note: While not entirely clear, it appears employee should be permitted to enroll or increase election for dental and vision coverage as well.</i></p> <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may enroll or increase election <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ No change allowed
<p><u>FAMILY MEDICAL LEAVE ACT (FMLA)</u></p> <p>Employee commences or returns from a leave of absence protected under the FMLA.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Commencement of leave: If leave is unpaid, employee may either revoke coverage or continue coverage but discontinue contributions during leave (employer may recover unpaid contributions upon return from leave). If leave is paid, employer may require employee to continue coverage (and contributions) if employees on other paid leaves are required to continue coverage ✓ Return from leave: Employee may make a new election if coverage terminated on leave. Employer may require prior election to be reinstated upon return from leave if prior elections of employees on other non-FMLA leaves are reinstated upon return from leave <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ Commencement of leave: If leave is unpaid, employee may either revoke or continue coverage but discontinue contributions

Description of Events	Permitted Election Changes
	<p>during leave (employer may recover unpaid contributions upon return from leave). If leave is paid, employer may require employee to continue coverage (and contributions) if employees on other paid leaves are required to continue coverage</p> <ul style="list-style-type: none"> ✓ Return from leave: Employee may make a new election if coverage terminated on leave. Employer may require prior election to be reinstated upon return from leave if prior elections of employees on other non-FMLA leaves are reinstated upon return from leave <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election or make a new election as permitted under FMLA <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election or make a new election as permitted under FMLA
<p><u>JUDGMENT, DECREE, OR COURT ORDER</u></p> <p>A judgment, decree or order resulting from a divorce, legal separation, annulment or change in legal custody (including a qualified medical child support order, or QMCSO) that requires accident or health coverage for an employee’s dependent child.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Order requires coverage for child under employee’s plan: Employee may change election to provide coverage for child ✓ Order requires other individual (e.g., spouse, former spouse) to provide coverage: Employee may change election to cancel coverage for child <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ Order requires coverage for child under employee’s plan: Employee may enroll or increase election ✓ Order requires other individual (e.g., spouse, former spouse) to provide coverage: Employee may decrease election <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ No change allowed

Description of Events	Permitted Election Changes
<p><u>COBRA QUALIFYING EVENT</u></p> <p>Employee, spouse or dependent experiences a qualifying event triggering COBRA continuation rights (or similar continuation rights under state law) under a group health plan, such as a reduction in hours or a dependent loss of eligibility.</p>	<p><u>Major Medical, Dental, Vision Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may increase election to pay for cost of COBRA coverage for employee, spouse or dependents (assuming dependent still qualifies as a tax dependent for health coverage purposes) <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ Employee may increase election to pay for cost of COBRA coverage for employee, spouse or dependents (assuming dependent still qualifies as a tax dependent for health coverage purposes) <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ No change allowed <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ No change allowed
<p><u>REDUCTION IN HOURS</u></p> <p>Employee who was reasonably expected to average at least 30 hours of service per week has a change in employment status so that the employee will reasonably be expected to average <u>less than</u> 30 hours of service per week, even if the reduction in hours does not cause a loss of eligibility.</p>	<p><u>Major Medical Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election for employee, spouse and dependents, provided employee, spouse and dependents intend to enroll in another plan providing minimum essential coverage effective no later than the first day of the second month following the month in which election is revoked <p><i>Note: No change permitted for dental or vision coverage (unless reduction in hours causes a loss of eligibility) except in rare circumstances where plan provides minimum essential coverage</i></p> <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change permitted <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ No change permitted <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ No change permitted

Description of Events	Permitted Election Changes
<p><u>EXCHANGE ENROLLMENT</u></p> <p>An employee is eligible to enroll in health coverage through a public Marketplace (Exchange) during a special enrollment period or during the Marketplace’s annual open enrollment period.</p>	<p><u>Major Medical Coverage:</u></p> <ul style="list-style-type: none"> ✓ Employee may revoke election for employee, spouse and dependents, provided employee, spouse and dependents intend to enroll in Marketplace coverage that will be effective no later than the day after the last day employer-sponsored coverage terminates <p><i>Note: No change permitted for dental or vision coverage except in rare circumstances where plan provides minimum essential coverage.</i></p> <p><u>Health FSA:</u></p> <ul style="list-style-type: none"> ✓ No change permitted <p><u>Dependent Care FSA:</u></p> <ul style="list-style-type: none"> ✓ No change permitted <p><u>Group Term Life, AD&D, Disability Coverage:</u></p> <ul style="list-style-type: none"> ✓ No change permitted

Next Steps for Employers

Some of the election change opportunities shown are not required under the law, but rather are options an employer can choose to allow under their plan. Once an employer decides which events they will allow, they need to include that information in their Plan Document and Summary Plan Description (SPD). These documents govern how the plan operates, so should be referenced by employers when deciding whether to approve or deny an employee’s request to change their elections.