

# Cafeteria Plan “Permitted Election Changes”

# Permitted Election Changes

Cafeteria plans are governed by Internal Revenue Code § 125 requiring employees to make irrevocable elections before the start of the plan year. Midyear changes are prohibited except on account of and consistent with certain status change events. IRS regulations outline the types of events and permitted election changes.

Each employer's cafeteria plan document may adopt some or all of the IRS permitted election changes but cannot go beyond the IRS-permissible items. Employers also should ensure consistency between their cafeteria plan document and their group contract(s).

EVENT	HEALTH (MEDICAL/ DENTAL/VISION)	HEALTH CARE FSA	DEPENDENT CARE ACCOUNT
<b>1. CHANGE IN LEGAL MARITAL STATUS</b>			
Gain dependent(s) due to marriage	<ul style="list-style-type: none"> <li>Employee may enroll employee and newly-eligible spouse and/or newly-eligible stepchild(ren).</li> <li>Employee also may add previously-eligible children under IRS tag-along option.</li> <li>Employee may drop employee's and/or children's coverage IF other coverage for the person(s) takes effect under new spouse's plan.</li> </ul>	<ul style="list-style-type: none"> <li>Employee may enroll or increase election due to newly-acquired dependent(s).</li> <li>Employee may stop or decrease election if employee or dependent(s) become eligible under new spouse's health plan.</li> </ul>	<ul style="list-style-type: none"> <li>Employee may enroll or increase election due to newly-acquired dependent(s).</li> <li>Employee may stop or decrease election if dependent(s) become eligible under new spouse's DCAP plan.</li> <li>Employee may stop election if new spouse disqualifies (i.e, spouse is not employed, disabled or full-time student).</li> </ul>
Lose spouse (e.g., divorce, legal separation, death of spouse)	<ul style="list-style-type: none"> <li>Employee may drop coverage only for spouse.</li> <li>Employee may enroll employee and/or dependents who lose eligibility under spouse's plan. (If any one person loses eligibility, employee may enroll employee and all eligible dependents under IRS tag-along option.)</li> </ul>	<ul style="list-style-type: none"> <li>Employee may enroll or increase election due to loss of coverage under spouse's health plan.</li> <li>Employee may drop or decrease election due to spouse losing eligibility.</li> </ul>	<ul style="list-style-type: none"> <li>Employee may enroll or increase election due to newly-eligible dependent(s) (e.g., loss of non-working spouse).</li> <li>Employee may stop or decrease election if dependent(s) become ineligible (e.g., dependents now live with ex-spouse).</li> </ul>

# Permitted Election Changes

EVENT	HEALTH (MEDICAL/ DENTAL/VISION)	HEALTH CARE FSA	DEPENDENT CARE ACCOUNT
<b>2. CHANGE IN NUMBER OF DEPENDENTS</b>			
Gain child (e.g., birth, adoption or placement for adoption)	<ul style="list-style-type: none"> <li>Employee may enroll employee and newly-eligible child.</li> <li>Employee also may enroll previously-eligible dependents under IRS tag-along option.</li> </ul>	Employee may enroll or increase election due to change in number of eligible dependents.	Employee may enroll or increase election due to change in number of eligible dependents.
Lose child (e.g., death)	Employee may drop coverage only for the child who was lost.	Employee may drop or decrease election due to change in number of eligible dependents.	Employee may drop or decrease election due to change in number of eligible dependents.
<b>3. CHANGE IN EMPLOYMENT STATUS THAT TRIGGERS GAINING ELIGIBILITY (EMPLOYEE OR DEPENDENT)</b>			
Employee's status change results in <i>gaining</i> eligibility under <i>this plan</i> (e.g., new job; part-time to full-time)	Employee may add coverage for employee and dependent(s).	Employee may enroll.	Employee may enroll.
Dependent's status change results in <i>gaining</i> eligibility under <i>another employer's plan</i> (e.g., new job; part-time to full-time)	Employee may drop coverage for employee and dependent(s) if they are added to dependent's new plan.	Employee may drop or decrease election due to spouse's new health plan.	<ul style="list-style-type: none"> <li>Employee may enroll due to spouse's new job.</li> <li>Employee may stop or decrease election if dependent(s) become eligible under spouse's new DCAP plan.</li> </ul>
<b>4. CHANGE IN EMPLOYMENT STATUS THAT TRIGGERS LOSING ELIGIBILITY (EMPLOYEE OR DEPENDENT)</b>			
Employee's employment change results in <i>losing</i> eligibility under <i>this employer's plan</i> (e.g., fulltime to part-time; unpaid leave)	Coverage ends. (COBRA may apply.)  <b>Note:</b> If employee regains eligibility (e.g., rehire) within 30 days, prior election is automatically reinstated (unless Open Enrollment or another qualifying event occurs).	Coverage ends. (COBRA may apply.)  <b>Note:</b> If employee regains eligibility (e.g., rehire) within 30 days, prior election is automatically reinstated upon return (unless Open Enrollment or another qualifying event occurs).	Coverage ends.  <b>Note:</b> If employee regains eligibility (e.g., rehire) within 30 days, prior election is automatically reinstated upon return (unless Open Enrollment or another qualifying event occurs).
Dependent's employment change results in <i>losing</i> eligibility under <i>another employer's plan</i> (e.g., spouse loses job; full-time to part-time, unpaid leave)	<ul style="list-style-type: none"> <li>Employee may enroll employee and/or dependents who lose eligibility under spouse's plan.</li> <li>Employee also may enroll other eligible dependents under IRS tag-along option.</li> </ul>	Employee may enroll or increase election due to loss of other health coverage.	<ul style="list-style-type: none"> <li>Employee may enroll or increase election due to loss of other DCAP.</li> <li>Employee may stop election if spouse disqualifies (e.g., unemployed spouse).</li> </ul>

# Permitted Election Changes

EVENT	HEALTH (MEDICAL/ DENTAL/VISION)	HEALTH CARE FSA	DEPENDENT CARE ACCOUNT
<b>5. DEPENDENT GAINS OR LOSES ELIGIBILITY (OTHER THAN MARITAL STATUS OR EMPLOYMENT CHANGES)</b>			
Dependent gains eligibility (e.g., becomes student) <b>Note:</b> Federal health care reform removed student requirement under age 26, so this status change event is rare.	<ul style="list-style-type: none"> <li>Employee may enroll employee and newly-eligible dependent.</li> <li>Employee also may add previously-eligible dependent(s) under IRS tag-along option.</li> </ul>	Employee may enroll or increase election due to newly-eligible dependent.	Employee may enroll or increase election due to newly-eligible dependent.  (Due to DCAP age limit, this is unlikely unless dependent is disabled, requiring day care.)
Dependent loses eligibility (e.g., child reaches age limit)	Employee may drop coverage only for affected dependent.	<ul style="list-style-type: none"> <li>Employee may enroll or increase election due to loss of other coverage.</li> <li>Employee may stop or decrease election if dependent becomes ineligible for FSA reimbursement.</li> </ul>	Employee may stop election if child becomes ineligible (e.g., reaches age 13).
<b>6. PLAN CHANGES IN COST</b>			
Plan makes automatic small cost change(s)	N/A. (Plan provides that employee's elections (contributions) change automatically.)	N/A	N/A
Plan makes <i>significant</i> cost change	<p>If cost <i>increase</i>, employee may change to another plan offering similar coverage (or drop coverage if similar plan not available).</p> <p>If cost <i>decrease</i>, employee may enroll or change coverage.</p>	N/A	<p>If <i>increase</i>, employee may increase election due to provider's cost increase, but not if provider is employee's relative.</p> <p>If <i>decrease</i>, N/A.</p>
<b>7. PLAN CHANGES IN COVERAGE</b>			
Plan makes <i>significant</i> curtailment in coverage	Employee may change to another plan offering similar coverage (or drop if no similar option).	N/A	Employee may change election only due to change in provider or change in hours of dependent care.
Plan adds new benefit or coverage option	Employee may elect the newly-added option.	N/A	N/A
Plan eliminates benefit or coverage option	Employee may elect another option.	N/A	N/A
Other employer's plan increases coverage	Employee may drop coverage for employee or dependent(s) if employee or dependent(s) are affected by change in other employer's plan.	N/A	Employee may stop or decrease election due to corresponding increase in other employer's DCAP.

# Permitted Election Changes

EVENT	HEALTH (MEDICAL/ DENTAL/VISION)	HEALTH CARE FSA	DEPENDENT CARE ACCOUNT
<b>7. PLAN CHANGES IN COVERAGE (CONTINUED)</b>			
Other employer's plan decreases or ceases coverage	Employee may enroll or increase election for employee or dependent(s) if employee or dependent(s) are affected by change in other employer's plan.	N/A	Employee may enroll or increase election due to corresponding decrease in other employer's DCAP.
Other employer's plan offers Open Enrollment	Employee may make corresponding changes under this employer's plan.	N/A	Employee may change election due to corresponding changes in other employer's DCAP.
<b>8. CHANGE IN RESIDENCE (EMPLOYEE OR DEPENDENT)</b>			
Change in residence triggers eligibility (e.g., move into a plan's service area)	<ul style="list-style-type: none"> <li>Employee may change coverage to plan for which employee is newly-eligible.</li> <li>Employee also may add previously-eligible dependent(s) under IRS tag-along option.</li> </ul>	N/A	N/A
Change in residence triggers loss of eligibility (e.g., move out of a plan's service area)	Employee may change coverage to another plan for which employee is eligible.	N/A	N/A
<b>9. JUDGMENTS, DECREES, OR ORDERS</b>			
Order requiring the employer's plan to add child(ren) to health plan coverage	Employee may enroll employee and affected child(ren).	Employee may add or increase election due to addition of child.	N/A
Order requiring another employer's plan to add child(ren) to health plan coverage	Employee may drop coverage only for affected child.	Employee may stop or decrease election due to child gaining other health coverage.	N/A
<b>10. MEDICARE, MEDICAID, OR CHIP</b>			
Employee or dependent becomes entitled to Medicare or Medicaid	Employee may drop coverage for affected employee or dependent(s).	Employee may drop or decrease election due to gaining other coverage.	N/A
Employee or dependent becomes entitled to premium assistance subsidy from Medicaid or CHIP	Employee may enroll affected employee or dependent(s).	N/A	N/A
Employee or dependent loses entitlement for Medicare, Medicaid or CHIP	Employee may enroll affected employee or dependent(s).	Employee may enroll or increase election due to losing other coverage.	N/A

# Permitted Election Changes

EVENT	HEALTH (MEDICAL/ DENTAL/VISION)	HEALTH CARE FSA	DEPENDENT CARE ACCOUNT
<b>11. OPTIONAL PROVISIONS RELATED TO THE AFFORDABLE CARE ACT (ACA)</b>			
Employee whose hours of service are reduced so that the employee is expected to average less than 30 hours of service per week	Employee may drop coverage for employee and dependent(s) based on intent to enroll in another plan providing minimum essential coverage (MEC) to start by first day of second month after this coverage ends.	N/A	N/A
Employee becomes eligible to enroll in a Qualified Health Plan (QHP) available in a Marketplace (Exchange)	Employee may drop coverage for employee and dependent(s) based on intent to enroll in a QHP (during Marketplace Open Enrollment or midyear Special Enrollment) to start the day after this coverage ends.	N/A	N/A

THIS MATERIAL IS OFFERED FOR GENERAL INFORMATION ONLY.  
IT DOES NOT PROVIDE, NOR IS IT INTENDED TO PROVIDE, TAX OR LEGAL ADVICE.