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Qualifying Life Events Election Guide

Employee Health and Welfare Benefit Plans

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About the Qualifying Life Events Election Guide

This document (the “Election Guide” or “Guide”) is intended to provide a summary of the various events that may allow an employee to make a midyear election change in coverage. The Election Guide is written from the perspective of a client’s plan(s) and its employees, their spouses, and dependents. This Election Guide does not address whether another employer’s benefit plan, government program, or other potential source of coverage must permit an election change.

What the Election Guide covers

- This Guide focuses on benefits typically paid for by pre-tax salary deductions through an Internal Revenue Code Section 125 cafeteria plan that are subject to the cafeteria plan mid-year election change rules. These rules restrict when an employee can change elections after the cafeteria plan year begins.¹
- Except where noted,² employers do not have to allow the election changes described in this Guide. An employer can pick and choose which events it wishes to recognize and which election changes to permit. The employer’s Section 125 cafeteria plan must reflect these and certain events may also need to appear in other plan materials for the underlying benefits.
- The overwhelming majority of employers adopt all of these events, with the exception of the events created due to the Affordable Care Act (ACA) noted later in this Guide (often intentionally). Although the IRS intends to amend the regulations to include the ACA-related events, they currently appear only in IRS notices.
 - A cafeteria plan can incorporate events by specific reference and/or broad language such as, “The Plan will allow all election changes permitted under 26 CFR Section 1.125-4.” This should be sufficient to include all permitted events.
 - We believe a cafeteria plan does not incorporate the ACA-related events if it does not specifically reference them and uses language such as, “The plan will allow all election changes described in 26 CFR Section 1.125-4.”
- We will generally refer to permitted mid-year election change events as qualifying life events (QLEs) in this Guide. The requested election changes must generally be consistent with the QLE. The regulations give some guidance on consistency and the tables below will provide additional information and examples of consistent election changes.
- A QLE may require the approval of an applicable insurance carrier, which includes the insurer for fully insured coverage and a stop-loss carrier (if any) for self-insured coverage. Insurers typically allow mid-year election changes due to a QLE as permitted under the employer’s Section 125 plan.

The only QLEs that permit a pre-tax mid-year election change retroactive to the date of the event are:

- (1) a timely election change because of a birth, adoption or placement for adoption (mandatory HIPAA special enrollment right for certain benefits), and
- (2) coverage retroactive to the date of hire if elected within the first 30 days of employment (optional).

All other election changes should be prospective, generally no later than the first day of the following month or as soon as administratively practical thereafter.

If allowed, other retroactive changes should be 100% employer-paid for the retroactive period of coverage or paid after-tax by the employee.

¹ An employer can allow whatever election changes it and any applicable third party (e.g. insurance carrier, third party administrator) are ready, willing, and able to administer before the plan year begins.

² Certain events are mandatory due to other laws, such as the HIPAA special enrollment rights, QMCSOs/NMSNs and the FMLA.

About the Qualifying Life Events Election Guide

The Election Guide does not address

- **Health savings accounts** – The rules permit an employee to make HSA election changes throughout the plan year without a QLE. The election changes are generally effective as soon as administratively practical.
- **Benefits paid for on an after-tax basis** – Under the regulations, a QLE is not necessary to allow election changes for benefits paid for on an after-tax basis. Fully insured benefits paid for solely on an after-tax basis do not even need to be incorporated into a cafeteria plan. The election changes are generally effective as specified by the insurance carrier or as soon as administratively practical thereafter. Even though QLEs are not required for these election changes, some insurance carriers place similar restrictions on after-tax benefits. Check with your insurance carrier to ensure you are aware of all restrictions on mid-year election changes.

Spouses and dependents

When used in this Guide:

- A “**spouse**” is the legal spouse of the employee and includes both opposite-sex and same-sex spouses. It does not include domestic partners (see below).
- A “**dependent**” generally means the employee’s natural, adopted, step, or foster child(ren) through the end of the year in which they turn 26 years of age or who otherwise qualify as the employee’s federal tax dependent. A particular benefit plan may be more restrictive than the law allows, so it is always recommended to review the benefit eligibility provisions. For example, a benefit plan is not legally required to include foster children or children for whom the employee has legal guardianship of in its definition of eligible dependents.

Domestic partners

Entering into or dissolving a domestic partnership will rarely be considered a QLE permitting an employee to make a mid-year pre-tax election change.

- A domestic partner is not a spouse for the purposes of the [Marriage](#) or [Divorce, Annulment, or Legal Separation](#) events described in this Guide.
- Many domestic partners will not qualify as the employee’s federal tax dependent for the purposes of the [Gain Other Dependent](#) or [Dependent No Longer Meets Eligibility Requirements](#) events.
- Domestic partner benefits are often provided on an after-tax basis, and a QLE is not required to make an election change under those circumstances (see above for discussion of benefits paid for on an after-tax basis).

We believe the majority of employers administer these events on the same basis as a marriage or divorce event for equality purposes, and we are not aware of the IRS engaging in any pattern of enforcement against employers for doing so.

Time to make election changes

The HIPAA special enrollment rights specify a minimum amount of time the group health plan must allow employees to make election changes after the occurrence of the event. HIPAA requires the plan to allow at least 30 days from the date of the event (60 in the case of certain Medicaid/CHIP events) for the employee to request an election change.

By contrast, the cafeteria plan rules do not specify any applicable timing requirements for QLEs. The available guidance does indicate that election changes must reasonably relate to the occurrence of a QLE. Most employers default to 30 or 31 days for all QLEs (except the Medicaid/CHIP events requiring 60), but it is common for employers to allow up to 45 or 60 days for certain events such as births and adoptions.

We generally recommend not allowing more than 60 days to make an election change following a QLE. We strongly recommend not allowing more than 90 days, as it becomes difficult to argue the election change reasonably relates to the QLE.

Election Guide Key and Meanings

HIPAA SER

HIPAA Special Enrollment Rights (SERs) apply to employer-provided group Medical/Rx plans, and any other group health plan that does not qualify as a HIPAA-excepted benefit, which may include certain Dental, Vision, and Health Care Flexible Spending Accounts (HCFsAs). The next column indicates why these additional benefits usually qualify for the exception.

HIPAA SERs require non-excepted group health plan(s) to allow enrollment for the employee, spouse and newly eligible dependent(s) when certain events occur. In other words, the underlying benefit plan must permit these changes. Each HIPAA SER requires a minimum special enrollment period (SEP).

Temporary relief during COVID-19 pandemic:

In response to the COVID-19 pandemic, federal agencies coordinated the release of regulatory and other guidance affecting certain rules for group health plans in early 2020. This includes the time for an individual to exercise a HIPAA special enrollment right. The guidance defines the term “Outbreak Period” to mean the period beginning March 1, 2020 and ending 60 days after the announced end of the COVID-19 National Emergency (which is still in effect as of this Guide’s publication date).

In 2021, the U.S. Dept. of Labor released revised guidance clarifying that if all or a portion of the timeframe to act on an event subject to the relief occurs during the Outbreak Period, the remaining time for an individual to act is suspended (i.e. frozen) until the earlier of:

1. One year from the date the Outbreak Period relief for that event began; or
2. Sixty days after the National Emergency ends.

HIPAA-excepted

Most Dental, Vision, and HCFsAs are HIPAA-excepted benefits. When this is true, the permitted election changes described are not mandatory, but the plan(s) can and still generally permit them. This may require the approval from any relevant insurance carrier (including stop-loss for self-insured coverage), although the insurance carrier can indicate its acceptance through written materials or otherwise in advance.

Dental/Vision

Dental and Vision plans are HIPAA-excepted benefits if: (1) offered under a separate policy/certificate; or (2) the employee can decline coverage and/or claims are administered under a separate contract from medical coverage.

HCFSA*

A HCFSA is a HIPAA-excepted benefit if:

1. the employer offers other group health coverage that covers medical expenses to the same employees; and
2. the maximum reimbursement does not exceed the greater of twice the participant’s HCFSA election or \$500.

*Note: An HCFSA that can only be used to reimburse for dental and/or vision expenses may separately qualify as a HIPAA-excepted benefit under the dental/vision standard.

Tag-along rule

The “tag-along rule” allows the addition/enrollment of any other eligible dependent(s), even if they were eligible and not enrolled previously. In other words, these are dependents not directly involved in the event. The tag-along rule is not mandatory. Plans (including Section 125 cafeteria plans) frequently do not specifically address this. Employers wishing to use it should apply it consistently. Plan materials should describe if and when the tag-along rule is available as a best practice.

COBRA

Federal COBRA applies. COBRA extends to Medical, Dental, Vision and HCFsAs for those individuals that lose coverage as a result of a COBRA qualifying event (QE). COBRA does not apply to the other benefits addressed in this Election Guide.

Required

Note

Frequently asked questions (FAQs) or clarification

Gain/Loss of Spouse and/or Dependent(s)

Marriage				
Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> The minimum SEP is 30 days Enroll employee Add spouse and/or any (newly) eligible dependent(s) Drop coverage for those enrolled under spouse's plan Employee can change plan options if enrolling a spouse or dependent The rules permit tag-along 	<ul style="list-style-type: none"> Likely HIPAA-excepted benefits Enroll employee (if HIPAA-excepted, must also add spouse or new dependent) Add spouse and/or (newly) eligible dependent(s) Drop coverage for those enrolled under spouse's plan Employee can change plan option options if enrolling a spouse or dependent The rules permit tag-along 	<ul style="list-style-type: none"> Likely HIPAA-excepted benefits Increase/start contributions Decrease/stop contributions if gain coverage under spouse's plan 	<ul style="list-style-type: none"> Increase/start contributions if there are newly eligible dependents Decrease/stop contributions if gain coverage under spouse's plan or spouse does not work or attend school 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> Enroll employee Increase coverage Decrease coverage Drop coverage

Example

Dawn and Joe get married. Prior to the wedding, Joe has medical coverage through his employer, but Dawn is not on her employer's plan. Dawn can enroll herself and add Joe to her employer's medical plan after the marriage. Joe should be able to drop medical coverage through his own employer if Dawn enrolls him. Dawn can enroll one or more of Joe's eligible dependent children, if any, even if Joe does not enroll.

Dawn's employer could also allow the tag-along enrollment for her unenrolled eligible dependent children. If Dawn already participates in her employer's medical plan and does not add Joe to her coverage, Dawn cannot add her existing children. Dawn cannot drop coverage unless she enrolls in Joe's employer plan.

If Joe works evenings and can help with childcare during the day, Dawn could decrease her DCFSA election.

Gain/Loss of Spouse and/or Dependent(s)

Divorce, annulment or legal separation (if legal separation affects eligibility)

- Many plans do not terminate coverage upon legal separation and only divorce/annulment will cause a loss of eligibility. A legal separation is a formal arrangement by court decree recognized in some states and not merely a couple choosing to live apart.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> For loss of coverage under another group health plan: the minimum SEP is 30 days Enroll employee if coverage lost under ex-spouse's plan Add eligible dependent(s) who lost coverage under ex-spouse's plan Drop dependent(s) for those enrolled under ex-spouse's plan <p>Drop ex-spouse and step-children</p>	<ul style="list-style-type: none"> Likely HIPAA-excepted benefits Enroll employee if coverage lost under ex-spouse's plan Add eligible dependent(s) who lost coverage under ex-spouse's plan Drop dependent(s) for those enrolled under ex-spouse's plan <p>Drop ex-spouse and step-children</p>	<ul style="list-style-type: none"> Likely HIPAA-excepted benefits Increase/start contributions if lost coverage under ex-spouse's plan Decrease/stop contributions <p>For ex-spouse and step-children</p>	<ul style="list-style-type: none"> Increase/start contributions if coverage lost for eligible dependent(s) under ex-spouse's plan Decrease/stop contributions if eligible dependent(s) gain coverage under ex-spouse's plan 	<p>If employee loses other coverage:</p> <ul style="list-style-type: none"> Enroll employee Increase coverage <p>For spouse/dependents losing eligibility:</p> <ul style="list-style-type: none"> Decrease coverage Drop coverage

Example

Dawn and Joe legally separate pending a divorce. Dawn's family is enrolled on her employer's medical plan, but she wants to drop Joe before the divorce is final. Since Joe is still eligible for coverage until the divorce is final, Dawn would not be able to drop him from her plan outside of open enrollment. Once the divorce is final, Dawn must remove Joe from the medical plan, as he is no longer eligible (ignoring any unusual state law for fully insured coverage). Joe had family coverage under his employer's dental and vision plan, so after the divorce, Dawn will lose coverage under those plans and can enroll in dental and vision coverage through her own employer.

If Joe was assisting with daytime childcare as described in the previous example, Dawn can increase her DCFSA election since she will need to begin paying for childcare again.

Gain/Loss of Spouse and/or Dependent(s)

Birth, adoption or placement for adoption

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> The minimum SEP is 30 days Enroll employee Add spouse and/or (newly) eligible dependent(s) Drop coverage for those enrolled under spouse's plan Employee can change plan option The rules permit tag-along If timely elected, coverage must be retroactive to event date and can be paid for pre-tax 	<ul style="list-style-type: none"> Likely HIPAA-excepted benefits Enroll employee (if HIPAA-excepted, must also add spouse or new dependent) Add spouse and/or (newly) eligible dependent(s) Drop coverage for those enrolled under spouse's plan Employee can change plan option The rules permit tag-along If a HIPAA-excepted benefit, retroactive coverage shouldn't be pre-tax 	<ul style="list-style-type: none"> Likely HIPAA-excepted benefits Increase/start contributions Decrease/stop contributions if gain coverage under spouse's plan If a HIPAA-excepted benefit, retroactive coverage cannot technically be pre-tax 	<ul style="list-style-type: none"> Increase/start contributions 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> Enroll employee Increase coverage Decrease coverage Drop coverage

Example

Bob and Sue are covered under Sue's employer medical plan and have a new baby on August 1, 2022. Sue can add the baby to her medical coverage within the SEP and coverage will be effective as of the date of birth. Sue can pay for any necessary retroactive premiums on a pre-tax basis from future payroll (the employer can spread this over a reasonable number of pay periods). In the alternative, Bob can exercise a special enrollment right to enroll in his employer's medical plan and does not have to enroll Sue or the baby to do this. Bob's coverage can also be retroactive to the date of birth and paid for on a pre-tax basis. Sue can drop Bob from her medical coverage if this occurs.

Assuming dental and vision coverage are excepted benefits, Sue's and Bob's employers could allow similar election changes, but the coverage must be prospective. Bob's employer may require him to add Sue and/or the baby to make the election change.

Gain/Loss of Spouse and/or Dependent(s)

Gain other dependent including legal guardianship/conservatorship/newly discovered dependent(s)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Enroll employee • Add (newly) eligible dependent(s) • Drop coverage for those enrolled under spouse's plan • Employee can change plan option <p>■ The rules permit tag-along (and may allow spouse enrollment)</p>	<ul style="list-style-type: none"> • Enroll employee • Add spouse and (newly) eligible dependent(s) • Drop coverage for those enrolled under spouse's plan • Employee can change plan option <p>■ The rules permit tag-along (and may allow spouse enrollment)</p>	<ul style="list-style-type: none"> • Increase/start contributions • Decrease/stop contributions if gain coverage under spouse's plan 	<ul style="list-style-type: none"> • Increase/start contributions 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> • Enroll employee • Increase coverage • Decrease coverage • Drop coverage

Example

Fred and Ethel become legal guardians of their grandchild. Fred has employee + spouse medical coverage through his employer. He can add the child to his coverage and can switch from the HMO option to his employer's PPO option. Fred can begin contributing to an HCFSA and the DCFSA if the family will need childcare services.

Gain/Loss of Spouse and/or Dependent(s)

Death of a spouse

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ For loss of coverage; the minimum SEP is 30 days • Enroll employee if coverage lost under deceased spouse's plan • Add any eligible dependent(s) who lost coverage under deceased spouse's plan ■ ■ Drop ex-spouse and step-children, if ineligible 	<ul style="list-style-type: none"> • Enroll employee if coverage lost under deceased spouse's plan • Add any eligible dependent(s) who lost their coverage under deceased spouse's plan ■ ■ Drop ex-spouse and step-children, if ineligible 	<ul style="list-style-type: none"> • Increase/start contributions if coverage lost under deceased spouse's plan • Decrease/stop contributions for loss of spouse eligibility ■ For step-children, if ineligible 	<ul style="list-style-type: none"> • Increase/start contributions if coverage lost for eligible dependent(s) under deceased spouse's plan 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> • Enroll employee • Increase coverage • Decrease coverage • Drop coverage

Example

Brian and David are married and enrolled in Brian's employer medical, dental, and vision coverage. Brian has a child, Dylan, from a previous marriage also enrolled in Brian's coverage. Brian passes away.

Brian's employer should offer COBRA to David under the medical, dental, and vision plans. David has a special enrollment right in his employer's medical plan due to the loss of coverage. Even if his employer's dental and vision plans are excepted benefits, David's employer likely recognizes a QLE allowing David to enroll in that coverage.

Dylan should only have COBRA rights through Brian's employer's coverage unless adopted by David, since Dylan will stop being David's stepchild upon Brian's death. If David adopted Dylan before Brian's death, Dylan is already David's son. The adoption could also occur after Brian's death, and the adoption will trigger a HIPAA special enrollment right (assuming Dylan is otherwise eligible for coverage).

Gain/Loss of Spouse and/or Dependent(s)

Death of a dependent (other than spouse)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Drop only the affected dependent 	<ul style="list-style-type: none"> Drop only the affected dependent 	<ul style="list-style-type: none"> Decrease/stop contributions 	<ul style="list-style-type: none"> Decrease/stop contributions only if the deceased dependent was eligible for coverage under the DCFSA Increase/start contributions if the deceased dependent was providing childcare services and the employee needs to begin paying for childcare. 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> Enroll employee Increase coverage Decrease coverage Drop coverage

Gain/Loss of Spouse and/or Dependent(s)

Qualified Medical Child Support Order (QMCSO)/National Medical Support Notice (NMSN)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ Enroll employee; add affected dependent • Drop affected dependent <u>only if</u> other parent is ordered to cover dependent under their plan ■ The rules do not address whether “tag-along” applies 	<ul style="list-style-type: none"> ■ Enroll employee; add affected dependent • Drop affected dependent <u>only if</u> other parent is ordered to cover dependent under their plan ■ The rules do not address whether “tag-along” applies 	<ul style="list-style-type: none"> • Increase/start contributions • Decrease/stop contributions if other parent ordered to provide medical, dental or vision coverage or cover under their HCFSA 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Example

ABC Company receives a QMCSO directing it to enroll Meg’s daughter (Heidi) in medical, dental and vision coverage. Meg is not a participant in ABC Company’s benefits. Since ABC Company’s medical, dental and vision benefits do not allow active enrollment for dependents without the employee, ABC Company must enroll both Meg and Heidi to those benefits to comply with the support order. This means ABC Company may also take the corresponding payroll deductions for those benefits (the court/agency order overrides state wage withholding law).

ABC Company should notify the employee of the QMCSO. If the employer has one or more corresponding plan options available (and assuming the QMCSO does not specify one), the employer should allow the employee to choose which plan option to enroll in. If the employee does not respond, the employer can enroll the employee in its base plan. For medical plan purposes, the court/state agency will generally reject a MEC or other limited benefit medical plan option if a more traditional comprehensive medical plan option is available.

If the order expires, Meg can only drop coverage for Heidi mid-year if the other parent is required to provide coverage. Meg could also choose to begin contributing to an HCFSA to help cover out-of-pocket medical expenses, but she cannot enroll in the DCFSA (QMCSOs do not apply to DCFSA).

Gain/Loss of Spouse and/or Dependent(s)

Dependent no longer meets eligibility requirements

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ Drop only the affected dependent ■ For the dependent losing coverage 	<ul style="list-style-type: none"> ■ Drop only the affected dependent ■ For the dependent losing coverage 	<ul style="list-style-type: none"> • Decrease/stop contributions ■ For the dependent child losing eligibility for coverage if the HCFSA is underspent when eligibility is lost (see note below which will generally mean no COBRA required for a calendar year HCFSA) ■ A dependent child is eligible through the end of the year in which they turn 26 	<ul style="list-style-type: none"> • Decrease/stop contributions ■ A non-disabled dependent child will age out on the day in which they turn 13 years old 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> • Decrease coverage • Drop coverage

Examples

1. A dependent ages out of the plan;
2. A plan permits coverage for foster children and the foster child relationship terminates;
3. A plan permits coverage for dependent children under legal guardianship and the legal guardianship terminates; and
4. A plan permits coverage for individuals who are tax dependents of the employee, but who are not the employee's children, and tax dependent status is lost.

Gain/Loss of Spouse and/or Dependent(s)

A “Hidden QLE” extension

The consistency rule for change in status events includes this statement: “A change in status that affects eligibility under an employer's plan includes a change in status that results in an increase or decrease in the number of an employee's family members or dependents who may benefit from coverage under the plan.” This appears to support election changes for the limited examples described below when the underlying event may not actually affect eligibility.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Add affected spouse and/or eligible dependent(s) • Drop coverage for affected spouse and/or dependent(s) 	<ul style="list-style-type: none"> • Add affected spouse and/or eligible dependent(s) • Drop coverage for affected spouse and/or dependent(s) 	<ul style="list-style-type: none"> • Unclear, but the gain or loss of a covered spouse and/or dependent(s) usually allows a corresponding election change 	<ul style="list-style-type: none"> • Unclear, but the gain or loss of an eligible dependent usually allows a corresponding election change • The availability of a spouse to provide childcare affects eligibility and allows a corresponding election change 	As consistent with the QLE: <ul style="list-style-type: none"> • Increase coverage • Decrease coverage • Drop coverage

Examples

1. An employee moves to the United States from another country without their spouse and/or dependent(s). The employee's move and/or commencement of employment is a QLE establishing eligibility for the employee *and* his/her family. The spouse and/or dependent(s) later move to the United States after the employee's original QLE to enroll them expires. Since the spouse and/or dependent(s) were already eligible, the later move does not result in a gain of eligibility;
2. Spouse and/or dependent(s) relocate to another country while the employee remains in the United States and all are still eligible for coverage; and
3. Spouse and/or dependent(s) enter or are released from incarceration.

Notes: It appears this only allows an employee to add or drop the affected spouse and/or dependents under the employee's existing coverage. It does not allow an employee who previously waived coverage to enroll or an enrolled employee to drop coverage (except as noted above for DCFSA). We do not recommend allowing election changes for short-term visits under #1 or #2 to avoid abuse and potential issues with the consistency rule.

Employer/Employment Event

Employee has change in status resulting in gain of eligibility in employer plan(s)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Enroll employee • Add any eligible dependent(s) • Employee can change plan option if change in employment status results in eligibility for new option(s) 	<ul style="list-style-type: none"> • Enroll employee • Add any eligible dependent(s) • Employee can change plan option if change in employment status results in eligibility for new option(s) 	<ul style="list-style-type: none"> • Start contributions 	<ul style="list-style-type: none"> • Start contributions 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> • Enroll employee • Increase coverage

Examples

1. A change in employee classification (e.g., PT to FT; hourly to salaried; union to non-union);
 Jen transitions from part-time to full-time employment at ABC Company. Part-time employees are eligible for the base medical plan option, but they are not eligible for ABC Company’s other medical plan option or dental and vision coverage. Now that she is full-time, Jen can keep her existing medical plan coverage or switch to the other medical plan option and can enroll in dental and/or vision coverage. If Jen switches medical coverage options, Jen can also add any eligible dependents to her medical coverage.
2. Start employment;
3. Returning from an unpaid LOA (see [FMLA events](#)); or
4. A change in the employee’s work location.

Employer/Employment Event

Employee has change in status resulting in loss of eligibility in employer plan(s)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Drop employee Drop spouse/dependent(s) Employee can change plan option if change in employment status results in loss of eligibility for previously elected plan option <p>■ If loss in coverage is due to a termination or reduction of hours</p>	<ul style="list-style-type: none"> Drop employee Drop spouse/dependent(s) Employee can change plan option if change in employment status results in loss of eligibility for previously elected plan option <p>■ If loss in coverage is due to a termination or a reduction of hours</p>	<ul style="list-style-type: none"> Stop contributions <p>■ If loss in coverage is due to a termination or a reduction of hours</p>	<ul style="list-style-type: none"> Stop contributions 	<ul style="list-style-type: none"> Decrease coverage Drop coverage

Examples

1. A change in employee classification (e.g., FT to PT; salaried to hourly; union to non-union);
2. Terminating employment;
3. Beginning an unpaid LOA (see [FMLA events](#));
4. A change in the employee's work location; or
5. A furlough or strike.

Employer/Employment Event

Employee has change in employment status to <30 hours per week but eligibility not affected because employee is in an ACA stability period

- The IRS added this event in IRS Notice 2014-55, but it has yet to add this event to the cafeteria plan regulations. A cafeteria plan may need to specifically refer to this event in order to incorporate it (see Slide #1 for more detail).
- This event only applies if the employer uses the look-back measurement method.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Drop coverage for those enrolled in other medical coverage ■ Employee must enroll in other coverage effective no later than the 1st day of the 2nd month from the election change. Employer may rely on the employee's representation that they will enroll and is not required to police this. 	<ul style="list-style-type: none"> ■ If a HIPAA-excepted benefit, no change allowed; otherwise, drop coverage for those enrolled in other dental/vision coverage ■ Employee must enroll in other coverage effective no later than the 1st day of the 2nd month from the election change. Employer may rely on the employee's representation that they will enroll and is not required to police this. 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Employer/Employment Event

Employee has change in status while in an ACA stability period but eligibility not affected

- The IRS added this event in IRS Notice 2014-55, but it has yet to add this event to the cafeteria plan regulations. A cafeteria plan may need to specifically refer to this event in order to incorporate it (see Slide #1 for more detail).

A discussion of ACA FT status is beyond the scope of this Guide. A number of employers use ACA FT status as an eligible class. When an employer uses the look-back measurement method, there are two situations where a change in status does not cause an employee to lose their ACA FT status right away.

1. A reduction of hours during a stability period where the employee is in a protected ACA FT status and remains eligible for benefits.

ABC Company is an applicable large employer under the ACA and uses the look-back measurement method. ABC Company uses ACA FT status as an eligible class under its medical plan. Kristen is in a protected stability period as an ACA FT employee and enrolled in medical coverage when she switches to part-time employment on September 12. Even though Kristen remains eligible for coverage under ABC Company's plan due to her protected stability period FT status, she wants to drop the medical plan and enroll in a less expensive medical plan option.

As long as ABC Company adopted this QLE, Kristen can drop coverage if she certifies that she is enrolling in other medical plan coverage no later than November 1.

2. Other than during the initial measurement period,* an employee transfers from a known FT to a known PT position (i.e. neither position is variable hour). Under the look-back measurement rules, this employee is not an ACA PT employee until the first day of the fourth month after the transfer. This transfer rule only applies if the employer offered coverage to the known FT when first eligible (subject to any waiting period) and assumes the employee works a PT schedule following the transfer. Many employers find this transfer rule too difficult to administer and simply treat the individual as FT for the remainder of the stability period.

*If this occurs during the employee's initial look-back measurement period, the change to ACA PT status occurs in the first month the employee does not have 130 hours of service.

Employer/Employment Event

Spouse/dependent change in status resulting in gain of eligibility under another employer's plan(s)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Drop coverage for employee, spouse and affected dependents if enrolled under another employer's plan 	<ul style="list-style-type: none"> Drop coverage for employee, spouse and affected dependents if enrolled under another employer's plan 	<ul style="list-style-type: none"> Decrease/stop contributions if gain coverage under another employer's plan 	<ul style="list-style-type: none"> Increase/start contributions if newly eligible because spouse begins working Decrease/stop contributions if dependent(s) gain coverage under spouse's plan through another employer 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> Increase coverage Decrease coverage Drop coverage

Example

Mark covers his daughter, Sam, under his employer's plan. Sam begins working and is eligible for coverage through her employer. Mark can drop coverage for Sam as long as Mark certifies she will enroll in her own employer's coverage.

Employer/Employment Event

Spouse/dependent change in status resulting in loss of eligibility under another employer's plan(s)

■ Event overlaps with the [Loss of other employer group health coverage or other health insurance by employee, spouse, or dependent\(s\)](#) event for Medical, Dental/Vision, and HCFSAs.

Medical	Dental/Vision	Health Care FSA (HCFSAs)	Dependent Care FSA (DCFSAs)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ The minimum SEP is 30 days • Enroll employee if coverage lost under other employer's plan • Add spouse and newly eligible dependent(s) if coverage lost under other employer's plan • Employee can change plan option ■ The rules permit tag-along 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits • Enroll employee if coverage lost under other employer's plan • Add spouse and newly eligible dependent(s) if coverage lost under other employer's plan • Employee can change plan option ■ The rules permit tag-along 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits • Increase/start contributions if group health coverage lost under another employer's plan ■ A loss of medical or dental/vision coverage allows the employee to increase/start contributions in the employer's HCFSAs 	<ul style="list-style-type: none"> • Increase/start contributions for loss of eligibility under another employer's plan • Decrease/stop contributions if spouse is not working, looking for work, or attending school 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> • Enroll employee • Increase coverage • Decrease coverage • Drop coverage

Example Kayla and Bethany are married and enrolled in employee + spouse medical coverage through Bethany's employer. Bethany terminates employment with her employer and loses her medical coverage. This enables Kayla to enroll herself and Bethany in medical coverage through Kayla's employer. Kayla can also choose to start contributing to her employer's HCFSAs as a result of losing medical coverage through Bethany's employer.

Employer/Employment Event

Employee, spouse or dependent(s) eligible for coverage under another employer’s plan with a different open enrollment period or plan year

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Enroll employee if coverage dropped under other employer’s plan • Add spouse and any eligible dependent(s) if coverage dropped under other employer’s plan • Drop coverage for those enrolled under another employer’s plan 	<ul style="list-style-type: none"> • Enroll employee • Add spouse and any eligible dependent(s) • Drop coverage for those enrolled under another employer’s plan 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • Increase/start contributions • Decrease/stop contributions ■ The rules permit a DCFSA election change if a corresponding change has been made in another employer’s plan. For example, if the spouse elects DCFSA coverage through another employer, the employee can decrease/stop contributions in their employer’s plan 	<ul style="list-style-type: none"> • Drop coverage if enrolled under another employer’s plan ■ This will rarely apply to the employee, because the employee is unlikely to be eligible for comparable ancillary coverage (e.g. voluntary term life, disability) through the other employer.

Example

Chris and Karen are married and each covered under their own employers’ plans. Karen’s employer has a July 1 plan year and Chris’s is a calendar year plan. If Chris adds Karen to his plan during his open enrollment period, Karen can drop her coverage as of January 1. However, Karen would not be able to change her HCFSA election mid-year.

Employer/Employment Event

Move/relocation

■ This event might overlap with the [Employee change in status](#) event (as a change in the employee’s work location). A loss of other coverage as a result of the move, such as a loss of coverage through a spouse’s employer, can also overlap with the [Loss of other employer group health coverage or other health insurance by employee, spouse, or dependent\(s\)](#) event.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ If move results in a loss of eligibility (such as relocating outside an HMO or EPO service area); the minimum SEP for enrollment in another plan is 30 days • Employee can change plan option if losing eligibility for existing plan option and/or gaining eligibility under a different plan option as a result of the move • Employee can enroll in newly available plan option if not previously enrolled and can add coverage for spouse and eligible dependent(s) • Employee can drop coverage due to loss of eligibility under current plan option even though another plan option may be available ■ The rules permit tag-along 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits • Employee can change plan option if losing eligibility for existing plan option and/or gaining eligibility under a different plan option as a result of the move • Employee can enroll in newly available plan option if not previously enrolled and add coverage for spouse and eligible dependent(s) • Employee can drop coverage due to loss of eligibility under current plan option even though another plan option may be available ■ The rules permit tag-along 	<ul style="list-style-type: none"> • No change allowed ■ The rules are explicit that no change is permitted under this circumstance unless eligibility for the HCFSA is somehow affected. The employee’s place of residence will rarely affect HCFSA eligibility, but it might be possible that HCFSA eligibility is tied to the employee’s work location (see Employee change in status event). 	<ul style="list-style-type: none"> ■ The cafeteria plan rules do not permit a change under this event unless the move directly affects DCFSA eligibility. ■ The move may result in another event that does permit the employee to change their DCFSA election. Examples include: <ol style="list-style-type: none"> 1. Both spouses begin working or one stops working changing the need for day care (employment change in status); 2. There are fewer available providers in the new location (see Significant reduction of coverage event); or 3. Day care is significantly more or less expensive in the new location (see Cost changes that are considered significant event). 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> • Enroll employee • Increase coverage • Decrease coverage • Drop coverage

Employer/Employment Event

Move/relocation

- This event might overlap with the [Employee change in status event](#) (as a change in the employee's work location). A loss of other coverage as a result of the move, such as a loss of coverage through a spouse's employer, can also overlap with the [Loss of other employer group health coverage or other health insurance by employee, spouse, or dependent\(s\) event](#).

Example

Allison's employer offers two medical plan options— an HMO and PPO, in addition to a HCFSA and DCFSA. She is eligible for both medical options, but chooses to enroll in the HMO. She declines to elect HCFSA coverage, but does participate in the DCFSA.

Allison moves out of state and becomes a remote employee. Allison loses eligibility for the HMO by moving out of the HMO service area, but remains eligible for the PPO plan option. Allison can enroll in the PPO plan or drop coverage entirely. The move did not affect Allison's eligibility for the HCFSA, and she is unable to make a mid-year HCFSA election due to the move even if she enrolls in the PPO. If Allison no longer needs paid childcare as a remote employee, she can decrease or stop contributing to her DCFSA.

Changes to plan design and/or cost

Cost changes that are considered significant (includes premiums, cost sharing)

- The rules do not explicitly define what qualifies as a “significant” cost change. It is determined based upon whether the employee would consider the change “significant.”
- A 10% cost change is generally a reasonable rule of thumb, although the overall relative cost change should be taken into consideration. If the change is not significant, see [Cost changes that are not considered significant](#) event.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Increase or decrease employee election based on whether cost increased or decreased • If existing plan option significantly increases in cost, employee may elect coverage under another plan option; if no plan option providing similar coverage is available, employee may drop coverage • If no change to existing plan option but the employer decreases the cost of another plan option, employee may switch to option with new decreased cost 	<ul style="list-style-type: none"> • Increase or decrease employee election based on whether cost increased or decreased • If existing plan option significantly increases in cost, employee may also elect coverage under another plan option; if no plan option providing similar coverage is available, employee may drop coverage • If no change to existing plan option but the employer decreases the cost of another plan option, employee may switch to option with new decreased cost 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • Increase or decrease contributions based on whether provider cost increased or decreased ■ No change permitted if cost change by dependent care provider who is a relative of employee 	<p>As consistent with the QLE:</p> <ul style="list-style-type: none"> • Enroll employee • Increase coverage • Decrease coverage • Drop coverage

Changes to plan design and/or cost

Cost changes that are considered significant (includes premiums, cost sharing)

- The rules do not explicitly define what qualifies as a “significant” cost change. It is determined based upon whether the employee would consider the change “significant.”
- A 10% cost change is generally a reasonable rule of thumb, although the overall relative cost change should be taken into consideration. If the change is not significant, see [Cost changes that are not considered significant event](#).

Examples

1. Increases/decreases as a result of switching from PT to FT and vice versa (overlaps with [Employee change in status event](#));
2. Premium change to insured benefit based on insurance contract year that differs from the plan year; and
3. Employer changes premiums mid-year due to implementing a wellness program or for other economic reasons.

ABC Company offers a PPO and an HDHP plan option to eligible employees. ABC implements a wellness program mid-year with a \$50/month premium discount toward either plan option for participating in wellness program activities. This discount should qualify as a significant decrease in cost allowing employees who previously waived coverage to enroll and enrolled employees to switch plan options (but not drop coverage). It should not matter if an employee makes an election change but does not actually participate in the wellness program.

Please note that this QLE does not support allowing an employee switching plan options to also change their tier of coverage and add or drop coverage for a spouse or dependents. Some flexibility may exist if the tiers of coverage between two or more plan options do not match (i.e. if one plan option has employee + children and the other requires family coverage in order to cover children).

Changes to plan design and/or cost

Cost changes that are not considered significant

- This event is for small, incremental cost changes or other circumstances where a cost change is insignificant. Start with determining whether the cost change is “significant” by reviewing [Cost changes that are considered significant](#) event.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Employer may automatically increase or decrease employee election based on whether cost increased or decreased; no change to election allowed 	<ul style="list-style-type: none"> • Employer may automatically increase or decrease employee election based on whether cost increased or decreased; no change to election allowed 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • Employer may automatically increase or decrease employee election based on whether cost increased or decreased

Example

XYZ Inc. inadvertently entered employee contribution rates incorrectly into its payroll system at open enrollment. As a result, employees have been paying \$89.32 per pay period instead of \$83.92 for employee-only medical coverage. Since this is not a significant cost change, XYZ can automatically correct the payroll deductions for affected employees and does not have to permit any related election changes.

Changes to plan design and/or cost

Significant reduction of coverage (with/without loss of coverage)

■ Other reductions, such as a reduction in visit limits for a covered benefit, will generally be viewed as occurring *without* a loss of coverage.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<p>With loss of coverage:</p> <ul style="list-style-type: none"> Employee may change plan option If no plan option providing similar coverage is available, employee may drop coverage <p>Without loss of coverage:</p> <ul style="list-style-type: none"> Employee may change plan option Dropping coverage completely is not available 	<p>With loss of coverage:</p> <ul style="list-style-type: none"> Employee may change plan option If no plan option providing similar coverage is available, employee may drop coverage <p>Without loss of coverage:</p> <ul style="list-style-type: none"> Employee may change plan option Dropping coverage completely is not available 	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> Decrease/stop contributions when there is a loss of a provider or a change in hours of available dependent care who is not a relative of the employee <p>■ “Elimination of the plan option” does not include the loss of a single provider at a day care center employing multiple providers</p>	<p>With loss of coverage:</p> <ul style="list-style-type: none"> Employee may change plan option If no plan option providing similar coverage is available, employee may drop coverage <p>Without loss of coverage:</p> <ul style="list-style-type: none"> Employee may change plan option Dropping coverage completely is not available

Examples

Significant reduction with loss of coverage

1. Elimination of the plan option;
2. Elimination of a service area (for the affected participants);
3. Substantial decrease in available providers; and

Note: The loss of a participant’s preferred physician or specialist is not a substantial decrease unless the physician or specialist is one of the only in-network providers available in the area who can perform the necessary services.

4. Elimination of a covered benefit under which the participant is currently receiving treatment (for the affected participants).

Significant reduction without a loss of coverage

1. Significant increase in cost sharing; and
2. Significant reduction in coverage for a service or treatment without eliminating coverage for the service or treatment (i.e. decrease in visit limit).

Change to plan option(s)

Addition or significant improvement of benefit option

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> If not enrolled in a plan option, the employee may enroll in the newly added/improved option Employee may change existing plan option to the newly added/improved option <p>■ The rules do not address whether “tag-along” applies, but it seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s)</p>	<ul style="list-style-type: none"> If not enrolled in a plan option, the employee may enroll in the newly added/improved option Employee may change existing plan option to the newly added/improved option <p>■ The rules do not address whether “tag-along” applies, but it seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s)</p>	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> Increase/start contributions if DCFSA is newly added/improved <p>■ This includes the availability of a new provider in the vicinity of the employee’s residence or workplace</p>	<ul style="list-style-type: none"> If not enrolled in a plan option, the employee may enroll in the newly added/improved option Employee may change existing plan option to the newly added/improved option

Example

Tyler had declined coverage at open enrollment, but his employer begins offering a health reimbursement arrangement (HRA) in the middle of the plan year to help with out-of-pocket costs for those enrolled in its fully insured medical plan. The addition of the integrated HRA allows Tyler to enroll in his employer’s medical plan. The employer should confirm the insurance carrier approves of this this before allowing employees to enroll in medical coverage mid-year.

If the HRA can also reimburse for dental/vision expenses, Tyler could also enroll in dental and/or vision coverage.

Tyler also has young children, but he did not elect DCFSA coverage at open enrollment. A new childcare facility opens in the office building, and Tyler begins sending his children to that facility. This permits Tyler to make a mid-year DCFSA election to pay for childcare through the new provider. This is not a qualifying life event for providers that existed at the beginning of the DCFSA plan year.

Change to plan option(s)

Addition or significant improvement of other employer's plan covering the employee's spouse/dependent(s)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Drop coverage for those enrolled under other employer's plan as a result of addition/improvement 	<ul style="list-style-type: none"> Drop coverage for those enrolled under other employer's plan as a result of addition/improvement 	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> Decrease/stop contributions if eligible dependent(s) gain coverage under other employer's DCFSA 	<ul style="list-style-type: none"> Drop coverage for those enrolled under other employer's plan as a result of addition/improvement <ul style="list-style-type: none"> This will rarely apply to the employee, because the employee is unlikely to be eligible for comparable ancillary coverage (e.g. voluntary term life, disability) through the other employer.

Example

Paul has family medical, dental and vision coverage through his employer. His wife Cindy's employer begins offering a new dental benefit option. If Cindy wants to enroll herself and the children in her employer's dental plan, Paul can drop them from his dental plan and keep employee-only dental coverage with his employer. Paul would need to maintain family coverage for medical and vision.

Change to plan option(s)

Reduction/termination of other employer's plan covering the employee, spouse or dependent(s)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> If employer terminates coverage (n/a if only a reduction of coverage); the minimum SEP is 30 days Enroll employee, spouse, and affected dependent(s) if coverage dropped under the other employer's plan The rules do not address whether "tag-along" applies, but seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s) 	<ul style="list-style-type: none"> Likely HIPAA-excepted benefits Enroll employee, spouse, and affected dependent(s) if coverage dropped in the other employer's plan The rules do not address whether "tag-along" applies, but seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s) 	<ul style="list-style-type: none"> No change is generally allowed In the unusual case that the HCFSA is subject to HIPAA's SER, and the plan terminates, an employee may be permitted to increase/start contributions 	<ul style="list-style-type: none"> Increase/start contributions if contributions decreased/stopped in the other employer's DCFSA 	<ul style="list-style-type: none"> Enroll employee if coverage dropped in the other employer's plan This will rarely apply to the employee, because the employee is unlikely to be eligible for comparable ancillary coverage (e.g. voluntary term life, disability) through the other employer.

Example

Margarita has employee-only medical coverage through her employer, while her husband Javier covers himself and the children under his employer's plan. Javier's employer implements a mid-year plan change to eliminate coverage for a specialty medication taken by one of their children. Assuming there is no other comparable medication covered under Javier's plan, Javier's employer may allow him to drop his medical coverage completely or merely for his affected child. This would allow Margarita to make a corresponding election change to add coverage under her medical plan.

Note: This example is not a HIPAA SER since Javier's employer reduced coverage instead of terminating it and neither Javier nor the children lost eligibility for coverage.

Gain/loss of other coverage

Loss of other employer group health coverage or other health insurance by employee, spouse, or dependent(s)

To qualify for this event, the individual must have had other health coverage when the previous opportunity to enroll in the employer's plan was declined. "Other Health Insurance" includes individual health insurance. This event can overlap with the [Spouse/dependent change in status resulting in loss of eligibility under another employer's plan\(s\)](#) event.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ The minimum SEP is 30 days • If employee loses other health coverage, enroll employee and spouse and/or dependent(s), if any • If spouse or dependent(s) lose other health coverage, add spouse or (newly) eligible dependent(s) and enroll employee if not already enrolled • Employee can change plan option if enrolling a spouse or dependent ■ The rules do not address whether "tag-along" applies 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits ■ If a HIPAA-excepted benefit, no change allowed ■ In the rare case that dental/vision are subject to HIPAA SER, the same election changes described under medical apply ■ If overlaps with the Spouse/dependent change in status resulting in loss of eligibility under another employer's plan(s) event, please see that event for election changes that can be permitted 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits ■ If a HIPAA-excepted benefit, no change allowed ■ In rare case that the HCFSA is subject to HIPAA SER, increase/start contributions if other health coverage lost ■ If overlaps with the Spouse/dependent change in status resulting in loss of eligibility under another employer's plan(s) event, please see that event for election changes that can be permitted 	<ul style="list-style-type: none"> • No change allowed ■ If overlaps with the Spouse/dependent change in status resulting in loss of eligibility under another employer's plan(s) event, please see that event for election changes that can be permitted 	<ul style="list-style-type: none"> • No change allowed ■ If overlaps with the Spouse/dependent change in status resulting in loss of eligibility under another employer's plan(s) event, please see that event for election changes that can be permitted

Gain/loss of other coverage

Loss of other employer group health coverage or other health insurance by employee, spouse, or dependent(s)

To qualify for this event, the individual must have had other health coverage when the previous opportunity to enroll in the employer's plan was declined. "Other Health Insurance" includes individual health insurance. This event can overlap with the [Spouse/dependent change in status resulting in loss of eligibility under another employer's plan\(s\)](#) event.

Example

Asha elected medical coverage for herself and her husband, Ramesh, under her employer's plan. Asha terminates employment during the plan year. If Ramesh's employer offers medical coverage, it must allow Ramesh to enroll himself and Asha in medical coverage as a special enrollment right.

If Asha and Ramesh also lost dental and/or vision coverage through Asha's employer, the rules do not require Ramesh's employer to allow enrollment if its dental and vision coverage are HIPAA-excepted benefits. Ramesh's employer can still permit enrollment due to a [Spouse/Dependent Change in Status Resulting in Loss of Eligibility Under Another Employer's Plan\(s\)](#) event, and many employers allow this.

Note: The loss of coverage must be involuntary. Voluntarily dropping coverage will not qualify for this event. The loss of an employer contribution toward active coverage qualifies as a loss of coverage. The loss of an employer subsidy toward COBRA or other continuation coverage does not qualify as a loss of coverage. An individual who elects COBRA does not qualify as losing the COBRA coverage unless the individual: (i) exhausts the maximum continuation coverage period; or (ii) COBRA is no longer available because the employer no longer offers that category of group health coverage (e.g. medical).

Gain/loss of other coverage

Employee enrolls in Medicare or Medicaid

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Drop coverage 	<ul style="list-style-type: none"> Appears that employee can drop coverage <ul style="list-style-type: none"> The regulation indicates the employee can drop “health plan” coverage which includes dental/vision. This seems inconsistent with gaining Medicare or Medicaid which do not provide traditional dental/vision coverage 	<ul style="list-style-type: none"> Decrease/stop contributions 	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> No change allowed

Gain/loss of other coverage

Employee loses Medicare entitlement

■ This will be very rare. It may occur, for example, if the employee loses Medicare eligibility because they recover from a disability.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Enroll employee ■ The rules do not address whether “tag-along” applies, but seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s) 	<ul style="list-style-type: none"> Enroll employee ■ The rules do not address whether “tag-along” applies, but seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s) The regulation indicates the employee can add “health plan” coverage which includes dental/vision. This seems inconsistent with losing Medicare which does not provide traditional dental/vision coverage 	<ul style="list-style-type: none"> Increase/start contributions 	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> No change allowed

Example

Shirley was eligible for and enrolled in Medicare due to end-stage renal disease, but she loses Medicare eligibility following a successful kidney transplant. The loss of Medicare will allow her to enroll in her employer’s medical coverage and also begin contributing to a HCFSA. Her employer may interpret the rule to allow enrollment in dental and vision coverage. She will not be able to make any DCFSA election changes.

Gain/loss of other coverage

Employee gains Medicaid or CHIP coverage premium subsidy assistance for a dependent in employer's plan

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ The minimum SEP is 60 days • Enroll employee • Add dependent(s) who become eligible for subsidy assistance • Employee can change plan option ■ The rules do not address whether “tag-along” applies 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits ■ If a HIPAA-excepted benefit, no change allowed ■ In the rare case that dental/vision are subject to HIPAA SER, the same election changes described under medical apply 	<ul style="list-style-type: none"> • No change allowed ■ This has not been addressed in guidance, but permitting an employee to increase/start contributions does not appear to be consistent with this event as premium subsidy assistance programs do not apply to HCFSA coverage and HCFSA eligibility will not be affected 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Gain/loss of other coverage

Spouse or dependent gains Medicaid or CHIP premium subsidy assistance in other employer's plan

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Drop coverage for those enrolled in the other plan 	<ul style="list-style-type: none"> Drop coverage for those enrolled in the other plan It is unlikely this event will allow a corresponding election in the other employer's plan, meaning no drop allowed 	<ul style="list-style-type: none"> Decrease/stop contributions if gain coverage under the other plan It is unlikely this event will allow a corresponding election in the other employer's plan, meaning no decrease/stop allowed 	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> No change allowed

Gain/loss of other coverage

Employee is eligible for and enrolls in Marketplace coverage during special or open enrollment

Marketplace coverage must be effective no later than the day after employer coverage ends. Employer may rely on the employee's reasonable representation and is not required to verify.

- The IRS added this event in IRS Notice 2014-55, but it has yet to add this event to the cafeteria plan regulations. A cafeteria plan may need to specifically refer to this event in order to incorporate it (see Slide #1 for more detail).

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Drop coverage for the employee and covered spouse/dependents 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits ■ If a HIPAA-excepted benefit, no change allowed ■ In the rare case that dental/vision are subject to HIPAA SER, drop coverage for the employee and covered spouse/dependents 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Example

Tarin is a full-time employee enrolled in her employer's medical plan. Due to a change in her family's financial circumstances, Tarin will qualify for a Marketplace subsidy in the middle of the year. Assuming her employer amended its cafeteria plan to specifically allow this QLE, she can drop her employer's medical coverage as long as she certifies to her employer that she will be immediately enrolling in Marketplace coverage.

Gain/loss of other coverage

Spouse/Dependent enrolls in Marketplace plan during special or open enrollment

Marketplace coverage must be effective no later than the day after employer coverage ends. Employer may rely on the employee's reasonable representation of spouse/dependent enrollment and is not required to verify.

- The IRS added this event in IRS Notice 2022-41 effective January 1, 2023 to address the family glitch final regulations, but it has yet to add this event to the cafeteria plan regulations. A cafeteria plan may need to specifically refer to this event in order to incorporate it (see Slide #1 for more detail).

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Drop coverage for spouse and/or dependent(s) enrolled in Marketplace coverage ■ Separate from employee-focused Marketplace QLE on Slide #35; this QLE allows the employee to drop coverage for any family member enrolling in the Marketplace rather than requiring the employee to drop coverage completely 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits ■ If a HIPAA-excepted benefit, no change allowed ■ In the rare case that dental/vision are subject to HIPAA SER, drop coverage for spouse and/or dependent(s) enrolled in Marketplace coverage 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Example

Alex is an ABC Company employee. ABC Company's medical plan operates on a July 1st – June 30th plan year. During annual enrollment, Alex enrolled his family under ABC Company's medical plan for the July 1, 2022 – June 30, 2023 plan year. Based on the cost of family coverage, Alex's spouse (Jennifer) and two children are eligible for a subsidy toward Marketplace coverage beginning January 1, 2023. Jennifer and their two children enroll in Marketplace medical coverage with an effective date of January 1, 2023. Alex may drop ABC Company medical coverage for Jennifer and their children as of December 31, 2022. Alex must remain enrolled in ABC Company's medical plan.

Gain/loss of other coverage

Spouse or dependent enrolls in Medicare, Medicaid or CHIP

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Drop the individual(s) who enroll Enroll employee if coverage lost under other employer's plan as a result Add spouse and affected dependent(s) if coverage lost under other employer's plan <p>■ The rules do not address whether "tag-along" applies</p>	<ul style="list-style-type: none"> Appears that employee can drop the individual(s) gaining entitlement Enroll employee if coverage lost under other employer's plan Add spouse and affected dependent(s) if coverage lost under other employer's plan <p>■ The rules do not address whether "tag-along" applies</p> <p>■ The regulation indicates the employee can drop "health plan" coverage which includes dental/vision. This seems inconsistent with gaining Medicare or Medicaid which do not provide traditional dental/vision coverage.</p>	<ul style="list-style-type: none"> Increase/start contributions if losing coverage under spouse's plan Decrease/stop contributions 	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> No change allowed

Gain/loss of other coverage

Employee loses Medicaid entitlement

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ The minimum SEP is 60 days • Enroll employee ■ The rules do not address whether “tag-along” applies, but it seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s) 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits • Enroll employee ■ The rules do not address whether “tag-along” applies, but it seems counter-intuitive to let the employee enroll in coverage and be unable to add a spouse and eligible dependent(s) ■ The regulation indicates the employee can add “health plan” coverage which includes dental/vision. This seems inconsistent with losing Medicaid which does not provide traditional dental/vision coverage. 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits • Increase/start contributions 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Example Andrea is covered by a state Medicaid program, but is losing her eligibility for that plan due to improved financial circumstances. She will have a special enrollment right to elect coverage under her employer’s medical plan. Andrea’s employer can allow Andrea to add her eligible family members (if any) to medical coverage, allow her to make a similar election for dental and/or vision coverage, and allow Andrea to begin contributing to the HCFSA.

Gain/loss of other coverage

Spouse or dependent loses Medicare entitlement

■ This will be very rare. It may occur if individual loses Medicare eligibility because they recover from a disability.

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Enroll employee and the employee's affected spouse or dependent(s) <p>■ The rules do not address whether "tag-along" applies</p>	<ul style="list-style-type: none"> Enroll employee and the employee's affected spouse or dependent(s) <p>■ The rules do not address whether "tag-along" applies</p> <p>■ The regulation indicates the employee can add "health plan" coverage which includes dental/vision. This seems inconsistent with losing Medicare which doesn't provide traditional dental/vision.</p>	<ul style="list-style-type: none"> Increase/start contributions 	<ul style="list-style-type: none"> No change allowed 	<ul style="list-style-type: none"> No change allowed

Gain/loss of other coverage

Spouse or dependent loses Medicaid or CHIP entitlement

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> ■ The minimum SEP is 60 days • Enroll employee and the employee's affected spouse or dependent(s) ■ The rules do not address whether "tag-along" applies 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits • Enroll employee and the employee's affected spouse or dependent(s) ■ The rules do not address whether "tag-along" applies ■ The regulation indicates the employee can add "health plan" coverage which includes dental/vision. This seems inconsistent with losing Medicaid which does not provide traditional dental/vision coverage. 	<ul style="list-style-type: none"> ■ Likely HIPAA-excepted benefits • Increase/start contributions 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Example Carrie declines coverage under her employer's medical plan. Her son, Jimmy, is covered under their state's Medicaid plan but subsequently loses eligibility for Medicaid. Carrie can enroll herself and Jimmy in her employer's medical, and Carrier's employer can allow enrollment in its dental and/or vision plan. She could also begin contributing to an HCFSA.

Gain/loss of other coverage

Loss of group health coverage sponsored by governmental or educational institution by employee, spouse, or dependent(s)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Enroll employee if coverage lost under other plan • Add spouse and affected dependent(s) if coverage lost under other plan <p>■ The rules do not address whether “tag-along” applies</p>	<ul style="list-style-type: none"> • Enroll employee if coverage lost under other plan • Add spouse and affected dependent(s) if coverage lost under other plan <p>■ The rules do not address whether “tag-along” applies</p> <p>■ From a consistency standpoint, the coverage lost should include dental/vision in order to permit enrollment in the employer’s dental/vision plan(s)</p>	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed 	<ul style="list-style-type: none"> • No change allowed

Gain/loss of other coverage

Loss of group health coverage sponsored by governmental or educational institution by employee, spouse, or dependent(s)

Examples

1. TRICARE: Albert's daughter, Cynthia, is under age 26 and active duty military. Albert did not cover Cynthia as a dependent under his employer's coverage (XYZ, Inc.) because TRICARE covers her. When Cynthia's military service ends, she is still under age 26 and an eligible dependent under XYZ's group health coverage. Albert can add Cynthia to his existing medical coverage (this event does not support allowing Albert to change plan options), and XYZ, Inc. can allow Albert to add Cynthia to his dental and/or vision coverage.
2. A federal employee health benefit program;
3. A state high risk pool;
4. Indian tribal coverage; and
5. A foreign government group health plan

Notes: This QLE only applies to a loss of governmental or educational institution coverage and does not apply when an employee, spouse, or dependent gains eligibility for this coverage. A gain in eligibility may be a [Spouse/dependent change in status resulting in gain of eligibility under another employer's plan\(s\)](#) or potentially a [Hidden QLE extension](#). This event would also include a loss of Medicare, Medicaid, and CHIP, but these are better addressed in the events specific to losses of those coverages elsewhere in this Guide.

Leave under the Family Medical Leave Act (FMLA)

Employee begins FMLA leave

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Employee must be given the option to continue coverage while on leave 3 payment options if coverage continued: <ol style="list-style-type: none"> Pre-payment, Pay-as-you-go, or Catch-up when leave ends 	<ul style="list-style-type: none"> Employee must be given the option to continue coverage while on leave 3 payment options if coverage continued: <ol style="list-style-type: none"> Pre-payment, Pay-as-you-go, or Catch-up when leave ends 	<ul style="list-style-type: none"> Employee must be given the option to continue coverage while on leave 3 payment options if coverage continued: <ol style="list-style-type: none"> Pre-payment, Pay-as-you-go, or Catch-up when leave ends 	<ul style="list-style-type: none"> Employee may change election and pay for benefit consistent with employer's permitted election changes for non-FMLA leave 	<ul style="list-style-type: none"> Employee may change election and pay for benefit consistent with employer's permitted election changes for non-FMLA leave

FMLA concurrent with paid leave (e.g., STD PTO)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> Employer can require employee to continue coverage and pay for contributions as required under the paid leave 	<ul style="list-style-type: none"> Employer can require employee to continue coverage and pay for contributions as required under the paid leave 	<ul style="list-style-type: none"> Employer can require employee to continue coverage and pay for contributions as required under the paid leave 	<ul style="list-style-type: none"> Employer can require employee to continue coverage and pay for contributions as required under the paid leave 	<ul style="list-style-type: none"> Employer can require employee to continue coverage and pay for contributions as required under the paid leave

Example

Kristen is having a baby and will be off on paid maternity leave concurrent with FMLA. Her health insurance elections can continue while on leave with premiums deducted from her paychecks on the same terms as when she was actively working.

- Administration should generally be consistent with non-FMLA leave except that the employee must be allowed to continue group health coverage while on FMLA leave and must be allowed to re-enroll for group health coverage when FMLA leave ends (including under the cafeteria plan).

Leave under the Family Medical Leave Act (FMLA)

FMLA not concurrent with paid leave

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Employer can require employee continue coverage if employer pays for premiums during leave ■ Employer can recover premiums when leave ends using catch-up method • If employer does not require employee to continue coverage, employee can drop coverage during leave 	<ul style="list-style-type: none"> • Employer can require employee continue coverage if employer pays for premiums during leave ■ Employer can recover premiums when leave ends using catch-up method • If employer does not require employee to continue coverage, employee can drop coverage during leave 	<ul style="list-style-type: none"> • Employer can require employee to continue coverage if employer pays for premiums during leave ■ Employer can recover premiums when leave ends using catch-up method ■ Employers rarely require continuation of HCFSA coverage during unpaid leave • If employer does not require employee to continue coverage, employee can drop coverage during leave ■ If coverage is dropped, claims during leave cannot be reimbursed 	<ul style="list-style-type: none"> • Employer can require employee continue coverage if employer pays for premiums during leave ■ Employer can recover premiums when leave ends using catch-up method ■ Employers rarely require continuation of DCFSA coverage during unpaid leave • If employer does not require employee to continue coverage, employee can drop coverage during leave ■ If coverage is dropped, claims during leave cannot be reimbursed 	<ul style="list-style-type: none"> • Employer can require employee continue coverage if employer pays for premiums during leave ■ Employer can recover premiums when leave ends using catch-up method • If employer does not require employee to continue coverage, employee can drop coverage during leave

Example Kristen exhausts her paid leave and her remaining FMLA time will be unpaid. Her employer does not require her to continue coverage, so she can drop all of her elections or continue coverage using any of the payment options allowed by her employer.

Leave under the Family Medical Leave Act (FMLA)

Employee returns from FMLA leave (a failure to return is a COBRA event)

Medical	Dental/Vision	Health Care FSA (HCFSA)	Dependent Care FSA (DCFSA)	Other pre-tax 125 plan benefits (non-HSA)
<ul style="list-style-type: none"> • Employer may require reinstatement of previous election if employees who return from non-FMLA leave are required to reinstate election ■ The employee should be able to change their election if the leave period overlaps with the annual enrollment period or the employee experiences another election change event (e.g., birth) • Employee may resume coverage or make a new election if the employee dropped coverage while on FMLA leave and the employer does not require reinstatement of previous election 	<ul style="list-style-type: none"> • Employer may require reinstatement of previous election if employees who return from non-FMLA leave are required to reinstate election ■ The employee should be able to change their election if the leave period overlaps with the annual enrollment period or the employee experiences another election change event (e.g., birth) • Employee may resume coverage or make a new election if the employee dropped coverage while on FMLA leave and the employer does not require reinstatement of previous election 	<ul style="list-style-type: none"> • Employer may require reinstatement of previous election if employees who return from non-FMLA leave are required to reinstate election ■ The employee should be able to change their election if the leave period overlaps with the annual enrollment period or the employee experiences another election change event (e.g., birth) • Employee may resume coverage or make a new election if the employee dropped coverage while on FMLA leave and the employer does not require reinstatement of previous election ■ Cannot exceed annual limit 	<ul style="list-style-type: none"> • Employer may require reinstatement of previous election if employees who return from non-FMLA leave are required to reinstate election ■ The employee should be able to change their election if the leave period overlaps with the annual enrollment period or the employee experiences another election change event (e.g., birth) • Employee may resume coverage or make a new election if the employee dropped coverage while on FMLA leave and the employer does not require reinstatement of previous election ■ Cannot exceed annual limit 	<ul style="list-style-type: none"> • Employer may require reinstatement of previous election if employees who return from non-FMLA leave are required to reinstate election ■ The employee should be able to change their election if the leave period overlaps with the annual enrollment period or the employee experiences another election change event (e.g., birth) • Employee may resume coverage or make a new election if the employee dropped coverage while on FMLA leave and the employer does not require reinstatement of previous election

Example

Kristen returns to work following leave and wants to reinstate her prior coverage. She was previously enrolled in the HCFSA and/or DCFSA, so she can make a new election for those plans also, but the total for her previous and current elections can't exceed the applicable annual limits for each of those plans.

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