

Section 125 Plans and Voluntary Loss of Coverage

January 12, 2023

Education, Employee Benefits



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If your school district sponsors a Section 125 plan, review your written Section 125 plan document for information regarding which qualifying events your plan permits. Knowing which qualifying events your plan permits is important as plan participants cannot revoke or change their Section 125 pre-tax premium election mid-year due to a voluntary drop of coverage unless there is an associated qualifying event.

Internal Revenue Code (IRC) Section 125 allows employers to offer employees the ability to pay for benefits on a pre-tax basis. To take advantage of this special tax treatment, employers must follow the rules of Section 125. In general, the elections employees make to pay for benefits on a pre-tax basis are considered irrevocable for a 12 month period.

Example: Employee is offered health, dental and vision benefits by the employer at open enrollment. The employee elects self-only health and dental insurance effective July 1. The elections to make premium payments for these benefits on a pre-tax basis must remain in effect from July 1 – June 30.

Qualifying Events

However, the Section 125 plan **may allow** participants to change elections for the pre-tax premium amounts mid-year if certain events occur, including the following:

- Change in status (Marital status, number of dependents, employment status, dependent eligibility change or change in residence);
- Significant cost increase;
- Significant curtailment of coverage;
- Addition or elimination of benefit package option;
- Change in coverage under other employer's plan;
- FMLA leaves of absence;
- Loss of group health coverage sponsored by a governmental or educational institution;
- COBRA qualifying events;
- HIPAA special enrollment events;
- Judgment, decree or court order; such as a Qualified Medical Child Support Order (QMCSO); or
- Medicare or Medicaid entitlement
- Marketplace enrollment

These “qualifying events” should be listed in the required Section 125 written plan document if the employer allows mid-year changes.

Voluntary Termination of Coverage

Absent from the list is a voluntary termination of coverage. If a participant decides mid-year that they no longer want the coverage or cannot afford the coverage and this is not accompanied by a qualifying event, the employer cannot revoke or change the participant's pre-tax premium election. Although insurance carriers will allow for a voluntary drop of coverage mid-year, the Section 125 rules do not allow for a revocation of the participants election **to pay for the coverage on a pre-tax basis** without a qualifying event. The result is that the participant can drop the coverage but will still be required to pay for it.

Other situations, including a situation in which a spouse may become eligible for his/her own employer sponsored plan and the employee wishes to enroll in the spouse's coverage, would fall under the "change in status" category of qualifying events.

Key Takeaway

School districts that sponsor a Section 125 plan should review their Section 125 written plan document regarding permissible qualifying events for participants to make changes to their pre-tax elections. Employers should be mindful that employees cannot revoke a pre-tax premium election due to a voluntary drop of coverage, unless there is an associated qualifying event.



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