

HEALTH CARE REFORM: SPECIAL RULE FOR OFF-CALENDAR YEAR CAFETERIA PLANS

California's American Health Benefits Exchange named "Covered California" will begin open enrollment on October 1, 2013 for any individual who wishes to purchase health insurance coverage for themselves and their families. The effective date of coverage will be January 1, 2014. Employers with off-calendar year plans face unique challenges if an employee requests an election change to drop the employer-sponsored coverage mid plan year in order to enroll in one of Covered California's qualified health plans

MID-YEAR ELECTION CHANGES

The general rule is that once an employee has made a salary reduction election under a cafeteria plan, the election must remain in-force for the entire plan year. However, an exception to this general rule allows an employee to change an election mid-year for a number of different reasons, such as a change in status event, for example. Changes in marital status, number of dependents, or employment status represent the most common change in status events. The availability of coverage on the Exchange is not an event that would allow an employee to drop or modify their group health plan coverage mid-year by making a new salary reduction election.

SPECIAL RULE FOR OFF-CALENDAR YEAR CAFETERIA PLANS

A transition rule was established to allow employers the option to amend their cafeteria plans for one year. This transition rule applies only to the revocation, modification, or commencement of salary reductions for accident and health coverage offered through a cafeteria plan of an employer who has an off-calendar plan year (i.e. plan year beginning on a date other than January 1st).

Large employers may, but are not required to, amend their cafeteria plans to permit either or both of the following changes in salary reduction elections:

- An employee may revoke prospectively or change his or her election, under an accident and health plan, once during the plan year, regardless of whether the employee experienced a change in status event.
- An employee who failed to make a salary reduction election at open enrollment for an accident and health plan is allowed to make a prospective salary reduction election for accident and health coverage during the plan year without regard to whether the employee experienced a change in status event.

AMENDMENT REQUIRED

Employers who wish to take advantage of this transition rule must amend their cafeteria plans to incorporate these changes. In this case, and this case only, the cafeteria plans may be amended retroactively by December 31, 2014, and become effective retroactively to the first day of the 2013 plan year.

Keenan & Associates is not a law firm and no opinion, suggestion, or recommendation of the firm or its employees shall constitute legal advice. Clients are advised to consult with their own attorney for a determination of their legal rights, responsibilities and liabilities, including the interpretation of any statute or regulation, or its application to the clients' business activities.