

HEALTH CARE REFORM: NEW CAFETERIA PLAN ELECTION CHANGES

On September 18, 2014, the Internal Revenue Service issued IRS Notice 2014-55 (“Notice”) to expand the rules relating to mid-year cafeteria plan election changes. Prior to the issuance of the Notice, participants could revoke an election for group health coverage and make a new election if a change in status occurred and the new election was consistent with the facts and circumstances. For example, a change in employment status that affected eligibility for coverage, or becoming eligible under another employer’s group health plan, may allow someone to revoke their current coverage and enroll in another plan.

Under the expanded rules, a participant may revoke group health plan coverage and enroll in an Exchange plan or another group health plan when that person’s Hours of Service are reasonably expected to be reduced below 30 Hours of Service per week without regard to whether that person’s eligibility is impacted. Likewise, an individual participating in a group health plan may revoke their election for coverage when eligible to enroll in Exchange coverage in order to avoid either a duplication of coverage or a period of no coverage.

REDUCTION IN HOURS OF SERVICE

At the option of the sponsor, a cafeteria plan may allow an employee to revoke an election of coverage under the sponsor’s group health plan -- but not a health Flexible Spending Account (FSA) -- provided the following conditions are satisfied:

- The employee was previously reasonably expected to average at least 30 Hours of Service per week;
- There was a change in the employee’s employment status so that the employee will be reasonably expected to average less than 30 Hours of Service per week even if that reduction does not result in the employee ceasing to be eligible under the group health plan; and
- The revocation of the election corresponds to the intended enrollment in another plan that provides minimum essential coverage (i.e. another group health plan or an Exchange plan) with such coverage effective no later than the first day of the second month following the month that includes the date the original coverage was revoked.

One intended purpose of this new permitted election change is to address situations in which the employee is characterized as a full-time employee during a Stability Period although the employee’s Hours of Service are reduced to part-time status.

Note: The administrator may rely on the reasonable representation of the employee that the employee and related individuals have enrolled or intend to enroll in another plan that provides minimum essential coverage within the time period stated above.

ENROLLMENT IN A MARKETPLACE PLAN

At the option of the sponsor, a cafeteria plan may allow an employee to revoke an election of coverage under a group medical plan (but not a FSA) provided the following conditions are satisfied:

- The employee (i) is eligible for a Special Enrollment Period through the Marketplace, or (ii) seeks to enroll during the Marketplace's annual open enrollment period; and
- The revocation of the election of coverage under the group health plan corresponds to the intended enrollment of the employee for new coverage on the Marketplace that is effective no later than the day immediately following the last day of the original coverage that is revoked.

Note: The administrator may rely on the reasonable representation of the employee that the employee and related individuals have enrolled or intend to enroll in a plan offered on the Marketplace that is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.

EFFECTIVE DATE AND PLAN AMENDMENTS

These rules are effective immediately. However, a sponsor who wishes to adopt these changes must amend the cafeteria plan on or before the last day of the plan year in which these changes are allowed.

Please contact your Keenan Account Manager for questions regarding this *Briefing* or if you require any additional information regarding the Affordable Care Act.

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