**Section 125 Rules Regarding Cancellation of Coverage**

All elections under a Section 125 plan are irrevocable by the date when taxable benefits are currently available or the first day of the plan year (Prop. Treas. Reg. §1.125-2(a)(1)). The only way to remove yourself or your dependents from the plan would be through a mid-year permitted election change since that is an exception to the irrevocability rule, as long as the plan is designed to allow those permitted election changes (Prop. Treas. Reg. §1.125-2(a)(4); Treas. Reg. §1.125-4). Permitted election changes include special enrollment rights provided in section 9801(f); a change in status; a change is permitted by other laws or court orders that results from a divorce, legal separation, annulment, or change in legal custody; entitlement to Medicare or Medicaid; significant cost of coverage changes; special requirements relating to the FMLA; and elective contributions under a qualified cash or deferred arrangement (Treas. Reg. §1.125-4).

The above-noted permitted election changes do not accommodate a mid-year open-enrollment right. Unfortunately, in order to maintain compliance with section 125, the election must be irrevocable regardless of whether or not the missed open enrollment deadline was unintentional. Therefore, the group would have to wait until the next open-enrollment period to remove an employee or their dependents from the plan absent a permitted election change within the terms of the applicable cafeteria plan document. Should these changes occur without a qualifying event the tax favored status of the entire Section 125 plan would be impacted.

**Permitted Change in Election Events:**

* Change in marital status.
* Change in number of dependents.
* Change in employment.
* Change in dependent eligibility due to plan requirements (e.g., loss of student status, age limit reached).
* Change in residence (e.g., employee or dependent moves out of plan service area).
* Significant cost changes in coverage.
* Significant curtailment of coverage.
* Addition or improvement to benefits package option.
* Change in coverage of spouse or dependent under another employer plan (e.g., spouse’s employer had no insurance coverage before but now offers a plan).
* Loss of certain other health coverage (e.g., plans provided by governmental or educational institutions).
* Health Insurance Portability and Accountability Act (HIPAA) special enrollment right events.
* Judgments, decrees or orders.
* Entitlement to Medicare or Medicaid.
* Change in hours worked to less than 30 hours per week on average if the employee and covered family members enroll in another plan providing minimum essential coverage. The employee is eligible for a special enrollment period to enroll in a qualified health plan through a marketplace/exchange. Employees and others covered must enroll in the plan by the first day after coverage ends under the employer plan. See, [IRS Notice 2014-55](https://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Documents/n-14-55.pdf) for details.