

## §125 Mid-Year Election Changes

June 2025

When employees make pre-tax elections to pay for qualified benefits through a cafeteria plan, §125 rules indicate such elections are irrevocable for the plan year unless the employee experiences a recognized change in status or life event. The reality is that making rare exceptions is unlikely to pose significant risk to the plan, but employers that regularly fail to follow §125 election change rules can put the tax-favored status of the cafeteria plan at risk for all participants.

§125 election change rules govern when pre-tax election changes are permitted, which is a separate consideration from whether coverage may be added or dropped mid-plan year. For example, most employers and carriers are very flexible with requests to drop coverage mid-plan year, but the employee may not be able to reduce pre-tax contributions mid-plan year without a recognized event. On the flip side, if an employee is asking to add coverage mid-plan year, the plan is not required to allow mid-year enrollment unless a HIPAA special enrollment right is triggered, even if §125 election change rules would permit an increase in pre-tax contributions. In other words, upon an employee's request for a mid-year election change, it's important for an employer to confirm both that the plan (or carrier) will allow coverage to be added/dropped AND that §125 rules will permit a mid-year change to pre-tax contributions.

The following table provides a list of events that would permit a mid-year change for pre-tax elections under §125 rules. It is common for employers to allow all changes permitted by §125 election change rules, but employers are permitted to be more restrictive and to adopt a shorter list of events that would permit mid-year election changes. Permissible mid-year election changes should be set forth in the employer's cafeteria plan document and summary plan description (SPD), if separate.

## Events Permitting Mid-Year Election Changes

### Change in Status

- change in employee's legal marital status (gain or lose a spouse);
- change in number of dependents;
- change in employment status for employee, spouse, or dependent that affects eligibility;
- dependent satisfies (or ceases to satisfy) eligibility requirements;
- change in residence; and
- commencement or termination of adoption proceedings

### Change in Cost of Benefits

- insignificant changes may be made by the employer automatically on a prospective basis
- significant changes allow the employee to adjust elections accordingly

### Significant Curtailment or Improvement of Coverage

### Change in Coverage Under Other Employer Plan (including when employer plans have different plan years)

### Loss of Group Health Coverage Sponsored by Governmental or Educational Institution

### HIPAA Special Enrollments

- individuals who lose group health plan or health insurance coverage
- acquisition of a new spouse or dependent by marriage, birth, adoption, or placement for adoption
- individuals who lose or become eligible for Medicaid or CHIP coverage

### COBRA Qualifying Events

### Judgments, Decrees, or Orders

- a judgment, decree, or order resulting from a divorce, legal separation, annulment, or change in legal custody that requires coverage for an employee's child or for a foster child who is a dependent

### Medicare or Medicaid Entitlement

### FMLA

### HSA

- election changes allowed prospectively on a monthly basis

### Other Plan Enrollment

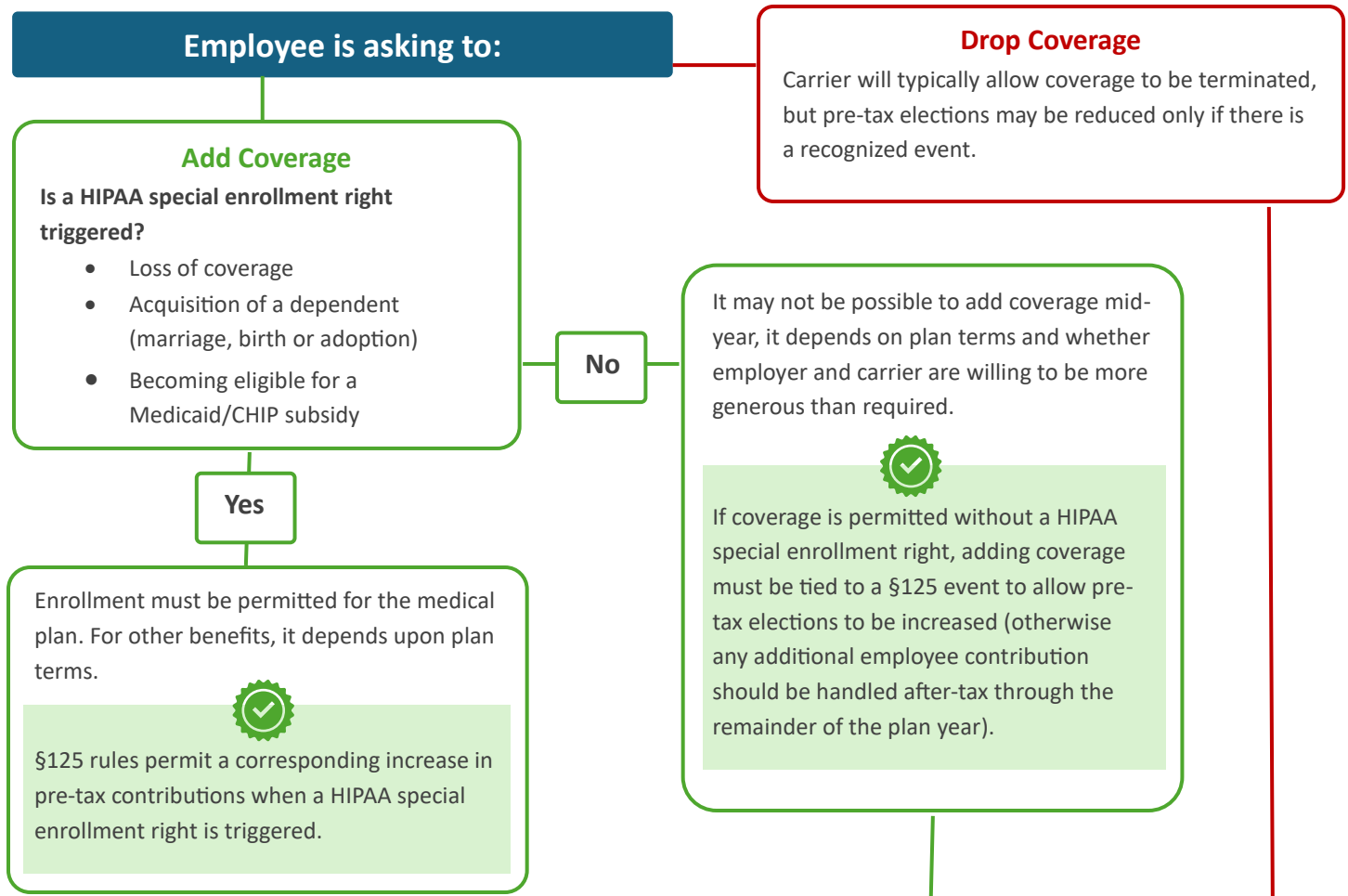
- participants permitted to revoke elections for employer-sponsored group health plan due to a reduction in hours even if there is no loss in eligibility (during the stability period) if employee indicates intention to enroll in another minimum essential coverage plan (group or individual coverage)
- participants permitted to revoke elections for employer-sponsored group health plan if the participant chooses to enroll in an individual health plan through the public Marketplace during the annual open enrollment period or a special enrollment period

**Consistency Rule** - Election changes must be consistent with the event that occurred. This rule requires that election changes be on account of and correspond with a change in status that affects eligibility for coverage under an employer's plan.

**Timing** - Election changes are generally required to have only a prospective effect except in the case of a birth or adoption, when HIPAA special enrollment rules require a retrospective effective date back to the date of birth or adoption.

# Election Change Flow Chart

June 2025



## List of §125 Events:

- Change in status:
  - Change in employee's legal marital status
  - Change in number of dependents
  - Change in employment status
  - Change in dependent eligibility status
  - Change in residence
  - Commencement/termination of adoption proceedings
- Change in cost of benefits or significant curtailment or improvement of benefits
- Change in coverage under other employer plan (including having a different plan year)
- Loss of group health coverage sponsored by governmental or educational institution
- HIPAA special enrollment
- COBRA qualifying event
- Medicare or Medicaid entitlement
- FMLA
- Enrollment in other minimum essential coverage

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