In November, the IRS released revised guidance to address the so-called "family glitch," permitting employers to allow mid-year election changes when someone related to a plan participant is eligible to elect a qualified health plan on the Marketplace. This is also a good opportunity to review all of the change in status events that allow employees to make changes in a cafeteria plan.

CAFETERIA PLAN CHANGE IN STATUS EVENTS AND PERMISSIBLE EMPLOYEE ELECTION CHANGES

Cafeteria plans are governed by IRS Code Section 125 and allow employers to help employees pay for expenses such as health insurance with pre-tax dollars. Employees can choose between a taxable benefit (such as cash) and two or more specified pre-tax qualified benefits (health insurance, for example). Employees can select the benefits they want, much like an individual standing in a cafeteria line.

Only an eligible employee can make cafeteria plan elections, but they can choose benefits that also cover other individuals such as spouses or dependents. Elections, with an exception for new hires and for HIPAA special enrollment periods, must be prospective and can only be made if certain events occur. Also, cafeteria plan elections are irrevocable and cannot be changed during the plan year, unless a permitted change in status occurs.

Plans may allow participants to change elections due to:

* Change in legal marital status
* Change in the number of dependents
* Change in employment status
* A dependent satisfying or ceasing to satisfy dependent eligibility requirements
* Change in residence
* Commencement or termination of adoption proceedings (only for adoption assistance benefits)

Plans may also allow participants to change elections based on the following changes that are not a change in status:

* Significant cost changes
* Significant curtailment (or reduction) of coverage
* Addition or improvement of benefit package option
* Change in coverage of a spouse or dependent under another employer plan
* Loss of certain other health coverage (for example, government provided coverage, such as Medicaid)
* HIPAA special enrollment rights (contains requirements for plans subject to HIPAA)
* Medicare Part D Disclosure
* COBRA qualifying event
* Judgment, decrees, or orders (like qualified medical child support order (QMCSO)
* Entitlement to Medicare or Medicaid
* Family Medical Leave Act (FMLA) leave
* Pre-tax health savings account (HSA) contributions (employees are free to change their HSA contributions whenever they wish, in accordance with their payroll/accounting department process)
* Reduction of hours
* Marketplace enrollment

Together, the change in status events and other recognized changes are considered “permitted election change events.”

Common changes that do not constitute a permitted election change event are:

* A provider leaving a network (unless, based on very narrow circumstances, it resulted in a significant reduction of coverage)
* A legal separation (unless the separation leads to a loss of eligibility under the plan), or commencement of a domestic partner relationship
* A change in financial condition

[Read the full guide](https://182985.fs1.hubspotusercontent-na1.net/hubfs/182985/Compliance/ComplianceAdvisor_CafeteriaPlans_ChangeInStatus_101122.pdf) to understand qualifying events and making election changes off-cycle.

2023 ANNUAL BENEFIT CARD

The Annual Benefit Card has been updated and revised to reflect 2023 benefit contribution limits and maximums. [Download the handy, wallet-sized card](https://182985.fs1.hubspotusercontent-na1.net/hubfs/182985/Compliance/2023_AnnualBenefitPlanAmountsCard.pdf) for a quick reference.

IRS REVISES GUIDANCE TO ALLOW EXPANDED MID-YEAR CAFETERIA PLAN ELECTION CHANGES

The IRS released revised guidance to address the so-called “family glitch,” permitting employers to allow mid-year election changes when an individual related to a plan participant is eligible to elect a qualified health plan on the Marketplace. The cafeteria plan change may be due to either a special enrollment period or occur during the Marketplace’s annual open enrollment period.

Plan sponsors do not have to allow election changes under the new guidance. However, plans that choose to permit such changes may do so for elections effective on or after January 1, 2023.

PCORI FEE ADJUSTMENT ANNOUNCED

The IRS announced the annual increase to the Patient-Centered Outcomes Research Institute (PCORI) fees that are paid by self-insured groups and health insurers.

The adjusted applicable dollar amount for PCORI fees for plan and policy years ending on or after October 1, 2022, and before October 1, 2023, is $3.00. PCORI fees are calculated by multiplying the applicable dollar amount for the year by the plan’s or policy’s average number of covered lives.

PCORI fees are reported annually on the second quarter IRS Form 720 no later than July 31 of the calendar year immediately following the last day of the policy year or plan year to which the fee applies.