

## Employee Ability to Enroll in Health Insurance Coverage through Marketplaces When Enrolled in Employer's Group Health Insurance Plan

### Overview:

There are certain times during the year when individuals can enroll in individual market coverage through a public Marketplace, such as the Health Connector. Generally, enrollment occurs during the annual Marketplace Open Enrollment (MOE) period. The first MOE period ends March 31, 2014. For coverage starting in 2015, the proposed Open Enrollment period is November 15, 2014 through February 15, 2015.

- There are also certain events, called Qualifying Life Events (also known as Triggering Events, Change in Status Events, etc.), that may permit an individual to enroll in public Marketplace coverage at times during the year that do not fall within the annual MOE period. Such events include (but are not limited to) an individual gaining or becoming a dependent as a result of a birth or marriage, an individual gaining access to Marketplace plans as a result of a permanent move, or an individual becoming a citizen, national, or lawfully present individual.

If an employee is eligible to apply for Marketplace coverage under the enrollment rules of the Affordable Care Act (ACA) and M.G.L. c. 176J, §4, then that employee may purchase a plan through the Marketplace. However, under some circumstances, an employee may be required to continue to pay for his or her employer plan, even if the employee has chosen to purchase an individual health plan through the Marketplace. Although an employee may be eligible under the ACA's enrollment rules to apply for Marketplace coverage, the employee may be limited by his or her employer's health insurance/section 125 cafeteria plan rules if the employee is covered by an employer's group health plan at the time the employee applies for public Marketplace coverage. This will typically be the case for employees enrolled in group coverage that does not align with a calendar year (otherwise the employer's open enrollment period and the MOE period may be in synch, potentially mitigating this issue).

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## **Why can't employees disenroll from their employer group health plan mid-plan year to enroll in Marketplace coverage during the Marketplace Open Enrollment period?**

Because, under federal rules, employer-sponsored group health insurance elected pre-tax through a section 125 cafeteria plan cannot be changed mid-cafeteria plan year unless the employee experiences a change in family status or other event that permits the employee to make that mid-year election change under the section 125 cafeteria plan rules (26 CFR s. 1.125-4). Some changes in family status rules correspond with Marketplace rules for enrollment in public Marketplace coverage.

Although the loss of group health coverage is a triggering event that can allow an individual to enroll in public Marketplace coverage at any point during the year, the availability of coverage through a Marketplace does not constitute grounds under Section 125 rules for an employee to dis-enroll either during or outside of a MOE period. Neither is simply wishing to dis-enroll from an employer's health insurance coverage to enroll in public Marketplace coverage outside of the employer plan's open enrollment period.

**Federal Relief Offered:** The federal government recognized this was a problem for employer health insurance/section 125 cafeteria plans that operate on a plan year that begins on a date other than January 1 because these plans already had an open enrollment in 2013 and would not have another open enrollment until after the Marketplace Open Enrollment period. (For example, employees covered by a calendar year group health plan could choose not to re-enroll in the group health plan effective 1/1/14 and, rather, enroll in public Marketplace coverage effective 1/1/14).

**One-Time Transition Relief for Non-Calendar Year Section 125 Plans For the Plan Year Beginning in 2013:** The proposed Employer Shared Responsibility regulation provides that employers may (but are not required to) amend their written Section 125 plans to permit one or both of the following changes to salary reduction elections made in 2013. For these employers:

- An employee who elected to salary reduce through the Section 125 plan for health plan coverage with a non-calendar plan year beginning in 2013 may prospectively revoke or change his or her health plan election once, during that plan year, without regard to whether the employee experienced a change in status event.
- An employee who failed to make a salary reduction election through his or her employer's cafeteria plan for health plan coverage with a fiscal plan year beginning in 2013 before the deadline for making elections for the cafeteria plan year beginning in 2013 is allowed to make a prospective salary reduction election for health plan coverage on or after the first day of the 2013 plan year of the cafeteria plan, without regard to whether the employee experienced a change in status event.
- However, it is important to note that the employer's written section 125 plan document must be amended by 12/31/14 to reflect this transition relief and be effective retroactively to the first day of the 2013 plan year.