

# eBenefits Alert: IRS Provides Two New Status Changes for Cafeteria Plans

October 7, 2014

## IRS Provides Two New Status Changes for Cafeteria Plans

*By Hallie Goodman*

On Sept. 18, 2014, the IRS issued Notice 2014-55, which creates two new situations where a plan participant may revoke an election for healthcare benefits under § 125 cafeteria plans. Until the regulations are modified, employers may rely on the notice's guidance.

### Reduction of Hours of Service

First, the new notice allows revocation of an election due to reduced service hours if certain conditions are met. These conditions are that:

- there is a change to the full-time employee's status so that the employee is expected to average less than 30 hours of service per week after the change,
- the revocation corresponds with the employee's intent to enroll in another plan that provides minimum essential coverage, and
- the new coverage begins at least on the "first day of the second month" after the original coverage is revoked

Previously, the regulations did not allow a participant to change his or her election status after he or she was no longer working full-time, but was still eligible for group health plan coverage. This situation occurs when the employer uses a look-back measurement period to determine whether an employee is full-time. An employee that changes his or her employment status to part-time after the measurement period is over still counts as full-time and is still eligible for health coverage. Before the new notice, the employee could not change his or her election despite the modification in employment status.

### Enrolling in the Health Insurance Marketplace

The notice also permits participants to revoke an election for the purpose of enrolling in a qualified health plan through the Health Insurance Marketplace during its annual open enrollment period. The plan through the Marketplace must begin immediately after the last day of the original coverage.



Before the notice, an employee could not revoke an election solely to enroll in a qualified health plan through the Marketplace. Thus, when an employee's cafeteria plan coverage operated on a non-calendar plan year and did not synchronize with the open enrollment period on the Marketplace, the employee was left with either overlapping coverage or a period of no coverage.

Employers must make amendments to their plans to allow for the new permitted election changes. Also, employers now have extra time to amend plans to adopt the recent changes for a plan year that begins in 2014. For these plans, the amendments must occur on or before the last day of the plan year that begins in 2015.

If you have any questions about the change or amending your plan, please contact a member of the Gray Plant Mooty Employee Benefits & Executive Compensation Practice Group.