



Julie Athey, J.D.
Director of Compliance

Julie assists with a variety of compliance issues related to employee benefits and the ACA, ERISA and other federal and state regulations.

Employee Benefits – Question of the Month

January 2019

Q: We have a married employee who is enrolled in our HSA-eligible high deductible health plan. Her husband is enrolled in his current employer's health plan. She just told us that he is changing jobs, losing his coverage, and won't be able to enroll in his new employer's plan until April 1, 2019. She wants to know:

1. Whether she can add him to our health plan when his current coverage ends;
2. If so, whether she can change their coverage from the HDHP/HSA to the PPO; and
3. Whether she can drop him from our plan when his new coverage takes effect on April 1.

I think the answers to #1 and #3 are yes, but I'm pretty sure the answer to #2 is no. Can you confirm this for me?

A: You are correct on #1 and #3 (probably), but wrong on #2. Here's why. First, note that I'm assuming you have a cafeteria plan (or at least a premium-only plan – or POP) and the necessary plan documents. Your question requires an analysis of both the HIPAA special enrollment rules and your cafeteria plan document.

- As to question #1, HIPAA requires you to allow the husband to enroll in these circumstances.
- As for #2, the cafeteria plan rules don't address this question directly. However, if a HIPAA special enrollment right is triggered by a spouse's loss of other group health coverage (as it is in this case), then the employee and spouse are entitled to enroll in any available plan option, even if the employee is currently enrolled in a different plan option. The HIPAA special enrollment regulations actually provide an example that directly resolves this question.
- As to #3, most cafeteria plans would allow the husband to be dropped from the plan in these circumstances, but you would need to consult your plan document to be 100 percent sure.

January 2019

© 2019 The Miller Group,
All rights reserved.

Feel free to contact me if you have any additional questions at
julie@millercares.com.