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Employee Benefits – Question of the Month

June 2018

Q: We have a new employee who was eligible for our health plan effective June 1, 2018. He has already paid COBRA premiums for coverage through his previous employer's plan for the month of June. He wants to come on our plan, but doesn't want to pay for double coverage and has asked if he can come onto our plan effective July 1 instead of June 1. Is this allowed under the cafeteria plan rules?

A: In general, the answer would be no. Employees that don't enroll when they first become eligible for coverage are required to wait until the next open enrollment period unless they experience a change in status that qualifies them for special enrollment and allows them to change their cafeteria plan elections mid-year.

While loss of other coverage (including coverage through a former employer or the end of COBRA) typically qualifies as a change in status, the facts you described don't really seem to fit. The employee is not seeking to enroll upon losing eligibility for the former employer's plan, so the question is whether he can enroll in your plan because he's losing COBRA coverage. Unfortunately, special enrollment rights do not arise when an individual voluntarily drops COBRA. For loss of COBRA coverage to be a change in status, the employee would have to be reaching the end of his COBRA entitlement. Or, if the former employer was contributing to the employee's COBRA premium, the employee would be allowed to enroll in your plan when those payments are stopped.

Based on the information provided, it seems the employee's best option may be to bite the bullet and enroll in your plan effective June 1, paying the duplicate premiums for that one month. If he doesn't, he would have to wait until your next open enrollment period to enroll in your plan (assuming he doesn't experience some other qualifying change in status in the meantime).

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