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## Employee Benefits – Question of the Month

December 2019

**Q:** We offer employees the opportunity to cover their domestic partners on our medical plan. We verify the existence of a domestic partnership using an affidavit that must be signed by both the employee and his or her partner. One of our employees recently notified us that his relationship is ending and asked to drop his former domestic partner from our medical coverage. My questions are:

1. Is this allowed under the cafeteria plan change in status rules?
2. If so, as of what date is coverage terminated?
3. What documentation should we require regarding the end of the relationship?
4. Do we need to offer COBRA to the former domestic partner?

**A:** There's a lot to unravel here so let's jump right in. First, employees are required to pay the portion of the premiums attributable to domestic partner coverage on an after-tax basis (i.e., not through the cafeteria plan) unless the domestic partner is a tax dependent of the employee. In my experience, few domestic partners qualify as tax dependents. Therefore, regarding your first question, the change in status rules probably don't apply, meaning that coverage can be dropped at any time. Furthermore, the end of the relationship likely means coverage **has to be** terminated because the former domestic partner no longer qualifies as an eligible dependent under the terms of the plan.

As to your other questions:

- **Question #2:** Coverage usually terminates at the end of the month in which an individual loses dependent status. For a domestic partner, that would mean the end of the month in which the relationship ended. The exact date will depend on the terms of your insurance certificate or plan document.

- **Question #3:** This will likely vary depending on the state in which the employee lives and whether the relationship was legally recognized by the state (such as a civil union or a registered domestic partnership). If it was, then at some point the employee should be able to provide documentation – similar to a divorce decree – that the relationship is ending. Otherwise, a simple request for something in writing from the employee and the former domestic partner should be sufficient to drop coverage. What you want to require is up to you, just make sure to apply your requirements consistently.

- **Question #4:** Domestic partners are not eligible for continuation coverage under COBRA. However, some states have their own requirement to offer COBRA-like coverage to domestic partners, so be sure to check applicable state law to be sure.

Feel free to contact me if you have any additional questions at [julia@millercares.com](mailto:julia@millercares.com).