

## Special Enrollment and Change of Status Event Provisions

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HealthFlex (the Plan) is designed to provide benefits in a tax effective manner under Section (§) 125 of the Internal Revenue Code (Code) as a cafeteria plan. Once you make benefit elections for a Plan year, you generally cannot change them. There are limited circumstances under which your benefit elections can be changed. These are called change of status (Change of Status) events as described in §125 of the Code, including, but not limited to, special enrollment (Special Enrollment) events, as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This document is intended to provide you with information about these events and the applicable time periods and limitations for making any election changes.

### Change of Status Events

If you are a covered participant in HealthFlex and you experience certain changes in your family's status, you might be permitted to make limited changes in your HealthFlex elections for the then-current Plan year. The Plan is administered as a cafeteria plan under the rules and regulations of §125 of the Code. Because the Plan is a cafeteria plan, circumstances in which you can make a change to your elections outside of the annual enrollment period under the Plan are limited to those Change of Status events described in §125 of the Code that the Plan has incorporated in its election change rules. These Change of Status events include:

- Marital status changes (e.g., marriage, divorce, legal separation<sup>1</sup>);
- Changes in the number of dependents (e.g., an increase through birth or adoption, or a decrease through death);
- Dependent ceases to qualify as a dependent under the Plan, i.e., becomes ineligible or regains eligibility (e.g., reaches a limiting age);
- Change in employment<sup>2</sup> status of a participant or dependent that affects eligibility for the underlying benefit plan (e.g., changing from full-time to part-time employment, commencement or return from an unpaid leave of absence);
- HIPAA Special Enrollment events (see next page); or
- Change in residence<sup>3</sup> that affects eligibility (e.g., moving out of the coverage area for a managed care option).
- You would like to cease coverage under HealthFlex in order to purchase coverage through a competitive Marketplace established under the Affordable Care Act<sup>4</sup>.

Any changes in elections based upon a Change of Status event must be on account of and consistent with such Change in Status as determined under applicable IRS rules. For example, when a participant acquires a new dependent, the election change for that Change of Status event would be to add coverage for that dependent, not to drop coverage for other dependents<sup>5</sup>.

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<sup>1</sup> In the case of legal separation, the Participant must provide documentation showing he/she is living separately from his/her spouse. To prove separation, a Participant may use documents like rental agreements for separate properties, separate utility bills, bank accounts, etc.

<sup>2</sup> Appointment changes within a conference, other than appointment to non-salaried statuses, and compensation changes alone are not considered Change of Status Events.

<sup>3</sup> Changes in residence that affect eligibility for certain coverage options do not qualify as Change of Status Events for flexible spending accounts. Some events may qualify as Change of Status Events for flexible spending accounts.

<sup>4</sup> Participants must adhere to Plan Sponsor rules before waiving the plan. Participants who are declining coverage for certain reasons—as allowed under the Plan and permitted by their Plan Sponsor—do not trigger the Plan's mandatory charges under its Risk Pool. Participants must contact their Plan Sponsor before waiving the plan.

<sup>5</sup> In accordance with IRS guidance, however, Dependents in addition to the newly acquired Dependent can be added to coverage under what is known as the "tag-along" rule.

In certain other limited circumstances, a participant may make changes to his or her elections. These additional Change in Status events are:

- Judgment, decree or order (i.e., a qualified medical child support order);
- Medicare entitlement (or loss of such entitlement);
- Mid-year Plan changes (e.g., significant changes in the cost of coverage or significant curtailment of coverage during a Plan year); or
- Certain required circumstances under the Family and Medical Leave Act where applicable to your employer.

### **HIPAA Special Enrollment Events**

If you decline coverage under HealthFlex, you are unable to make an election of HealthFlex coverage until the next annual enrollment period, and coverage would not begin until the subsequent Plan year. In addition, you are asked to indicate on the *HealthFlex Enrollment/Change Form* whether you have Other Health Coverage.<sup>6</sup> It is important that you provide this information to the Plan because, under federal law, if you have given this written notice to the Plan and subsequently lose that Other Health Coverage, you may, in certain situations, be able to enroll for HealthFlex coverage at the time you lose the Other Health Coverage. This rule would also apply if you were assigned “No Coverage” due to noncompliance with the 31-day signature requirement. The 31-day signature requirement is the HealthFlex policy, wherein your Plan Sponsor has 31 days to complete, sign and submit to Wespath Benefits and Investment (Wespath) the *HealthFlex Enrollment/Change Form* that you have completed and submitted. (See “Important Time Requirements for Change of Status Events” on page 3 of this document.)

*Please see the section titled “Important Time Requirements for Change of Status Events” below. The 31-day signature requirement is extended by the IRS Rule, Extension of Certain Timeframes for Employee Benefit Plans, Participants and Beneficiaries Affected by the COVID-19 Outbreak.*

The situations in which you and your eligible dependents may be able to enroll for HealthFlex coverage upon the loss of Other Health Coverage or make changes to elections if you are currently enrolled are called “Special Enrollment events.”

A Special Enrollment event occurs when:

- You decline coverage under HealthFlex for yourself because you have Other Health Coverage, COBRA or other continuation coverage, then you lose the Other Health Coverage because you are no longer eligible (e.g., due to an employment status change, divorce, death of a spouse etc.) or because the employer failed to pay the required premium, or you exhaust the COBRA or other continuation coverage period.
- You or your eligible dependent become eligible for a premium subsidy for coverage under HealthFlex through Medicaid or a state Children’s Health Insurance Program (CHIP).
- You decline coverage under HealthFlex for your spouse or dependent because your spouse or dependent has Other Health Coverage, COBRA or other continuation coverage, then your spouse or dependent loses the Other Health Coverage because he or she is no longer eligible (e.g., due to an employment status change, limiting age, etc.), because the employer failed to pay the required premium, or he or she exhausts the COBRA or other continuation coverage period.
- You gain a new dependent due to marriage, birth, adoption, placement for adoption or legal guardianship.
- Your plan or the plan of your spouse or dependent no longer offers a benefit option to an entire class of similarly situated individuals that includes you or your spouse or dependent.

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<sup>6</sup> Under HealthFlex, Other Health Coverage includes coverage under a self-insured group health plan; an individual or group health insurance plan or HMO plan; Parts A or B of Medicare; Medicaid; a health plan for current and former members of the armed forces; a health plan provided through Indian Health Services; a state health benefit risk pool; the Federal Employees Health Program; a plan provided under the Peace Corps Act; a state, county or municipal public health plan; CHIP; health coverage provided under a plan established by a foreign country; coverage provided under state or federal health continuation mandates (e.g., COBRA); individual or group health insurance through an association; and an individual or group health conversion plan.

- You are assigned “No Coverage” under HealthFlex because of non-compliance with the time requirements for Change of Status Events (see “Important Time Requirements for Change of Status Events” below) and one of the above events occurs.
- You become ineligible for a Premium Tax Credit in the Affordable Care Act’s Health Insurance Marketplace (Exchange).

In order to enroll in the Plan as a result of a Special Enrollment event, you or your spouse or dependent must be otherwise eligible for coverage under the Plan.

If you do not experience one of these Change of Status events, you are not permitted to change your elections at any time during the Plan year.

### **Effective Dates of Coverage Changes Due to a Change of Status**

When HealthFlex coverage is accepted due to a Change of Status event, the effective date of medical, dental and vision coverage is as follows:

- **Special Enrollment event—loss of Other Health Coverage:** HealthFlex coverage will be effective as of the first day you are without Other Health Coverage.
- **Special Enrollment event—conclusion of COBRA coverage or other continuation coverage:** HealthFlex coverage will be effective as of the first day you are without the COBRA coverage or other continuation coverage.
- **Special Enrollment or Change of Status event wherein a new dependent is added to your family:** HealthFlex coverage will be effective as of the date of the marriage, birth, adoption, placement for adoption or legal guardianship.
- **Change of Status event wherein a dependent regains eligibility:** HealthFlex coverage will be effective as of the date the dependent first meets the eligibility requirements.

If the addition of a Health care or Dependent care Flexible Spending Account (FSA) is permitted under HealthFlex Special Enrollment and Change of Status event provisions, the effective date of that benefit will be the effective date of HealthFlex coverage.

When HealthFlex coverage is lost or declined due to a Change of Status event, the effective date of the loss of medical, dental and vision coverage and the termination of Health care FSA and Dependent care FSA participation is the last day of the month in which the date of the Change of Status event occurred.

### **Important Time Requirements for Change of Status Events**

The time requirements explained in this section are extended by the IRS Rule: “Extension of Certain Timeframes for Employee Benefit Plans, Participants and Beneficiaries Affected by the COVID-19 Outbreak.” Under this IRS relief, the 31-day timeframe for Change of Status events must be extended if the qualifying event occurs between March 1, 2020 and 60 days after the announcement that the National Emergency (COVID-19) has ended. An ending announcement has not yet been communicated as of March 1, 2022.

Participants who experience a special enrollment within this period (i.e., March 1, 2020 through 60 days following the end of the period), can request special enrollment up to 30 days after this period ends, (but no later than one year from the date the relief began for a particular Participant).

You must inform your Plan Sponsor of any Change of Status event, including Special Enrollment events, within **31 days** of the occurrence. The date of the Change of Status is included in the 31 days<sup>7</sup>. You have **60 days** to notify your Plan Sponsor of the Special Enrollment event and to request enrollment:

- If you lose Medicaid coverage or coverage through CHIP, or
- If you or your dependent become eligible for a premium subsidy for coverage under HealthFlex through Medicaid or CHIP.

If you experience a Change of Status event and wish to accept coverage or make election changes, you must complete a *HealthFlex Enrollment/Change Form* and return it to your Plan Sponsor in a timely manner. Your Plan Sponsor must sign the form and forward it to Wespath within the appropriate 31- or 60-day time requirement.

**If these time requirements are not met, you cannot make coverage or election changes due to the Special Enrollment or Change of Status event you experienced, and you will have to wait until the next annual enrollment period to make changes for the subsequent Plan year.**

**Example 1:**

John has declined HealthFlex coverage because he has coverage through his spouse's employer. John's wife subsequently loses the Other Health Coverage because her employment is terminated. The last day of coverage under the Other Health Coverage plan is March 31. John notifies his Plan Sponsor and receives a *HealthFlex Enrollment/Change Form*. He completes and returns the *HealthFlex Enrollment/Change Form* to his Plan Sponsor's office. All of this must be done such that the Plan Sponsor can sign the *HealthFlex Enrollment/Change Form* by end of the business day on April 30. Coverage is effective April 1.

**Example 2:**

Susan is covered under HealthFlex. She also covers her husband and son. On May 1 Susan gives birth to her daughter, Alicia. Susan notifies her Plan Sponsor of the birth and receives a *HealthFlex Enrollment/Change Form*. She completes the *HealthFlex Enrollment/Change Form* adding Alicia as a covered dependent and returns it to her Plan Sponsor's office. All of this must be done such that the Plan Sponsor can sign the *HealthFlex Enrollment/Change Form* by end of the business day on May 31. Coverage is effective May 1.

**Note:** The timelines cited in the examples above do not take into account the deadline extensions available in the IRS Rule due to COVID-19.

**Other Life Events**

- **Appointment Status Changes:** In addition to the events described above, certain events, like certain changes of appointment status, can trigger coverage and elections changes.
- **Disability and Medicare Entitlement:** Upon Medicare entitlement a participant may elect to change coverage to Medicare.
- **Medicare Secondary Payer Small Employer Exception (MSPSEE):** A Medicare-entitled participant actively working for a small employer in the MSPSEE program will be covered under a Medicare Supplement Plan. The participant cannot change Health care FSA or Dependent care FSA elections.

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<sup>7</sup> When Other Health Coverage is lost or you encounter any of the other Special Enrollment events listed in the "Special Enrollment Events" chart on page 5, the 31-day count starts with the first day that follows the Special Enrollment event—the first day without coverage under the Other Health Coverage plan.

## Special Enrollment Events

Special Enrollment Event for Eligible Persons Who Have Declined HealthFlex Coverage	Enrollment/Coverage Category Changes	Health care FSA (Elect/Terminate)	Dependent care FSA (Elect/Terminate)	Medical/Dental Option Change Time of Event
<ul style="list-style-type: none"> <li>• Newly eligible dependent</li> <li>• Spouse loses Other Health Coverage</li> <li>• Individual loses Other Health Coverage (e.g., due to divorce, or death of spouse)</li> <li>• You or your dependent become eligible for state-based premium assistance for HealthFlex coverage under Medicaid or CHIP</li> <li>• You or your dependent become ineligible for a Premium Tax Credit in the Affordable Care Act's Health Insurance Marketplace (Exchange).</li> </ul>	<p>May enroll for coverage of self and eligible dependents</p>	<p>May elect</p>	<p>May elect</p>	<p>Yes, full elections</p>

## Change of Status Events

Family Status Change of Participant with Coverage	Enrollment/Coverage Category Changes	Health Care FSA (Elect/ Terminate)	Dependent Care FSA (Elect/ Terminate)	Medical/Dental Option Change Time of Event
Gain new dependent child (birth, adoption, placement for adoption or legal guardianship)	May enroll and cover new dependent and (because of the tag-along rule), other eligible dependents.	May elect; may increase; may terminate	May elect; may increase; may decrease; may terminate	No
New spouse (marriage)	May enroll and cover new dependent (and, because of the tag-along rule, other eligible dependents); may decline coverage on self* and dependents (if other health coverage is available through spouse)	May elect; may increase; may decrease; may terminate	May elect; may increase; may decrease; may terminate	No
Dependent regains health coverage eligibility	May enroll affected dependent	No	No	No
Spouse loses Other Health Coverage	May enroll spouse and other eligible dependents	May elect; may increase	May elect; may increase; may decrease; may terminate	No
Divorce or legal separation	Must decline coverage on spouse and any other ineligible dependents; may enroll eligible dependents; may drop dependents	May decrease; may terminate	May elect; may increase; may decrease; may terminate	No
Dependent loses health coverage eligibility	Must decline coverage on dependent; dependent eligible for continuation coverage	No	No	No
Participant loses health coverage eligibility	Must be terminated; participant eligible for continuation coverage	N/A	N/A	No
Participant dies	Covered dependents eligible for surviving dependent coverage	N/A	N/A	No
Child dies	Drop coverage of deceased individual only	May decrease; may terminate	May decrease; may terminate	No
Spouse dies	Drop coverage of spouse or add eligible dependents, if other dependents lose coverage through deceased spouse	May elect; may increase; may decrease	May elect; may increase	No

\* Note: If HealthFlex coverage is required by your Plan Sponsor, you will not be able to decline coverage for yourself.

**Change of Status Events** (continued)

Family Status Change of Participant with Coverage	Enrollment/Coverage Category Changes	Health Care FSA (Elect/ Terminate)	Dependent Care FSA (Elect/ Terminate)	Medical/Dental Option Change Time of Event
Loss of benefit option due to zip code change through a change in residence	May decline coverage on self * and/or dependents	No	No	Only the medical and dental option(s) being lost or gained
Spouse gains Other Health Coverage	May decline coverage on self * and dependents	May decrease; may terminate	May elect; may increase; may decrease; may terminate	No
Disability, family medical, maternity/paternity leaves (after three months in status)	No	N/A	N/A	No
Medicare entitlement	Change to the medical plan available to retirees age 65 and over	N/A	N/A	Yes
Judgment, order or decree	Add or drop dependent in accordance with the judgment, order or decree	May elect; may increase; may decrease; may terminate	May elect; may increase; may decrease; may terminate	No
Salaried to non-salaried status (leave of absence)	Participant can drop or change coverage	Terminated	Terminated	No
The participant's hours of service are reduced so that he/ she is expected to average less than 30 hours per week, but the participant remains eligible for HealthFlex	Drop coverage for self and dependents	Terminated	Terminated	No
The participant would like to purchase coverage through a Marketplace established under the ACA	Drop coverage for self and dependents	Terminated	Terminated	No

**\* Note: If HealthFlex coverage is required by your Plan Sponsor, you will not be able to decline coverage for yourself.**