



National Compliance Update

USI EMPLOYEE BENEFITS

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COVID-19 Special Enrollment Considerations

In response to the COVID-19 pandemic, several carriers have communicated their intent to open a “special enrollment period” during which time employees who had previously failed to enroll in coverage for themselves, their spouses, and/or their children would be permitted to enroll in employer sponsored coverage.

Employers will have the ability to opt-in (or opt-out) of special enrollment periods. The following discussion summarizes the potential compliance and tax considerations that employers should review when determining whether to avail themselves of these special enrollment periods.

SECTION 125 CONSIDERATIONS.

Absent relief issued by the Department of the Treasury, a COVID-19 special enrollment period is unlikely to be considered a status change event pursuant to Section 125 of the Internal Revenue Code. Employees and dependents permitted to enroll in coverage during any special enrollment period should remit contributions on an after-tax basis unless specific guidance is provided.

If an employer pays the cost of an accident or health insurance plan for his/her employees, including for an employee’s spouse and dependents, the employer’s payments are not considered wages and are not subject to Social Security, Medicare, and FUTA taxes, or federal income tax withholding.¹

PLAN DOCUMENTS AND PARTICIPANT COMMUNICATIONS.

Employers considering a COVID-19 special enrollment period should consider whether their plan documents, summary plan descriptions, and other relevant participant communications should be updated to reflect a special enrollment period. Plan sponsors should also consider communicating potential tax implications identified above with participants.

¹ <https://www.irs.gov/businesses/small-businesses-self-employed/employee-benefits>

BUSINESS IMPLICATIONS.

Plan sponsors should consider the potential financial impact that a COVID-19 special enrollment period may have on their employer sponsored health coverage. Employers should carefully consider the ramifications of potential adverse selection that may result from offering a COVID-19 special enrollment period, while also factoring in potential benefits to their employee populations from making such coverage available.

STOP LOSS CONSIDERATIONS.

Plan sponsors of self-funded plans will need to carefully review relevant stop loss policies and obtain written authorization from stop loss carriers to allow for COVID-19 special enrollment periods, as necessary. Stop loss carriers may not agree to coverage for participants newly enrolled pursuant to a COVID-19 special enrollment period, which could expose plan sponsors to significant financial liability.

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