

Section 125 Cafeteria Plan Description for Premium-only Plan

[TEMPLATE FOR]
ABC Company

PLAN DESCRIPTION

FOR THE

“PREMIUM ONLY”

SECTION 125 CAFETERIA PLAN

[Amended and Restated/Effective] _____

THIS PLAN DESCRIPTION IS INTENDED FOR USE BY EMPLOYERS ALLOWING EMPLOYEES TO ACCESS COMMONWEALTH CHOICE COVERAGE THROUGH A SECTION 125 CAFETERIA PLAN ON A VOLUNTARY BASIS. IT IS NOT INTENDED FOR USE BY SMALL GROUP EMPLOYER SPONSORS DESIGNATING A BENCHMARK PLAN AND MAKING AN EMPLOYER CONTRIBUTION.

This plan description provides an overview of the requirements for participation in the Section 125 Cafeteria Plan and is intended to be a brief summary. The Plan is governed by a formal plan document. If there are any differences between this summary and the official plan document, the plan document will govern.

Section 125 Cafeteria Plan Description for Premium-only Plan

Introduction

We are pleased to announce that we have [established/amended and restated] our Section 125 Cafeteria Plan (the “Plan”) under which you may pay your medical care coverage premiums on a pre-tax basis. Under the Massachusetts Health Care Reform Law, you are now eligible for favorable tax treatment of your medical care coverage premiums even though you are not eligible for medical care coverage through your Employer. Your participation in this Plan is completely voluntary.

Participation In The Plan

Under the Plan, you may choose to receive your entire compensation in cash or use a portion of it to pay for certain medical care coverage premiums (See “Medical Care Coverage” below). When you elect to pay for your medical care coverage premiums, your regular compensation will be reduced on a pre-tax basis by the amount of your premium payment for the coverage you have selected. This means that you will pay less in taxes each year.

Important note: If you decide to pay for medical care coverage using pre-tax income, the amount withheld from your pay will not be subject to federal income or Social Security (“FICA”) taxes. This could result in a reduction in the Social Security benefits you receive at retirement if you earn less than the “taxable wage base.” The taxable wage base for 2007 is \$97,500 and is adjusted annually. The tax advantages you gain by paying your medical care coverage premiums with pre-tax income may, however, offset any possible reduction in Social Security benefits and you should consult a tax advisor to determine whether in your situation the benefits achieved outweigh any potential reduction of Social Security benefits.

Medical Care Coverage

You can use pre-tax dollars to purchase any medical care coverage that has been granted the seal of approval by the Commonwealth Health Insurance Connector Authority (the “Connector”).¹ This coverage is not offered through this Plan or through your Employer, is not endorsed by your Employer and is not part of your Employer’s benefit program. Your eligibility for the medical care coverage is determined by the Health Connector and the applicable insurance carrier.

Additionally, although the Health Connector has granted its seal of approval to these medical care coverage options, coverage is provided by the insurance carrier issuing the applicable medical insurance policy. Neither the Health Connector nor your Employer have any liability for any benefits due, or alleged to be due, under any such medical insurance policies.

Eligibility

¹ [This section will need to be tailored if additional medical care coverage options are made available.]

You are eligible to participate in this Plan if (i) you are an employee of [insert name of company], (the “Employer”); (ii) you are not an “excluded employee;” and (iii) you have completed [] months of service.²

You are an “excluded employee” if you are:

- (i) eligible for another Section 125 Cafeteria Plan offered by your Employer;
- (ii) less than 18 years of age;
- (iii) covered by a collective bargaining agreement unit if health benefits were the subject of good faith bargaining;
- (iv) a temporary employee;
- (v) regularly scheduled to perform fewer than 64 hours per month;
- (vi) wait staff, service employee or service bartender and you earn less than \$400 in monthly payroll wages;
- (vii) a student employee employed as an intern or a cooperative education student worker;
- (vii) a seasonal employee who is an international worker with either a U.S. J-1 student visa, or a U.S. H2B visa and you have travel health insurance; or
- (vii) [other].

Electing To Participate In The Plan

If you are eligible to participate in the Plan and you wish to use pre-tax dollars to pay for medical care coverage offered through the Health Connector, you must complete a Participation Election Form within 30 days following the date you become eligible. You will also need to select a medical care coverage plan and complete an enrollment form. This must be done through the Health Connector. More than one method of enrollment may be available, such as a written enrollment form, electronic enrollment on an internet web site or via telephone. For more information on medical care coverage options offered through the Health Connector and/or to enroll in medical care coverage, please visit the Health Connector’s website at www.MAhealthconnector.org.

Your participation in the Plan will be effective [] and will remain in effect until you cancel it or you otherwise become ineligible to participate in the Plan.

If you are eligible to participate in the Plan but you decide not to use pre-tax dollars to pay for medical care coverage, or you do not enroll in medical care coverage within 30 days following the date you become eligible, you will be deemed to be a participant in the Plan who has elected the cash option. This means that, absent a change in status event (described in the next section below), you will not be able to elect to use pre-tax dollars to purchase medical care coverage until the Plan’s next annual enrollment period.

² [This needs to be customized by the employer based on the employer’s eligibility requirements.]

Before the start of each Plan Year (e.g. July 1 - June 30), you will be offered an annual enrollment period to change your existing election. If you do not make a new election, your existing election will remain in effect.

Changing Your Election

Generally, you cannot change the elections you have made under the Plan after the beginning of the Plan Year. However, you are permitted to change certain elections if you experience an IRS defined “change in status” and/or other special events as described below.

Examples of status changes include these events:

- marriage;
- divorce, legal separation or annulment;
- death of your spouse or dependent child;
- birth, adoption or placement for adoption of a child;
- termination of the employment of your spouse or dependent child;
- commencement of the employment of your spouse or dependent child;
- your or your spouse’s or dependent child’s commencement or return from an unpaid leave of absence from employment;
- adjustment to your or your spouse’s or dependent child’s work schedule, such as a switch between part-time and full-time work, a strike, a lockout or an increase or reduction in hours of employment, that causes a loss of coverage;
- a change in your or your spouse’s or dependent child’s worksite or residence that causes a loss of current coverage eligibility;
- adjustments in dependent status through satisfying or ceasing to satisfy the age, student status or other requirements to qualify as a dependent under the Plan;
- significant change in your or your spouse’s health coverage attributable to the spouse’s employment; and
- leave of absence under the Family Medical and Leave Act.

Your election may also be changed if one of these special events occurs:

- the issuance of a judgment, decree or order that requires accident or health coverage for your dependent child.
- your or your spouse’s or dependent child’s entitlement to Medicare or Medicaid that causes a loss of coverage.
- a “significant” increase in the cost of any benefit under the Plan.
- elimination or “significant” cutback in coverage provided by an insurance company or other third party. You may cancel your election and receive coverage under a similar plan, provided both plans agree to make the change.
- your failure to make the required premium payment. Your election will be canceled but you will not be able to make a new election for the rest of the Plan Year.
- your separation from service. If you terminate employment, you may cancel your election for any remaining period of coverage.

If you have a status change and/or other special event and you want to cancel or modify your election for the remainder of a Plan Year, you must file a request with your Employer within 30 days of the event. Keep in mind that any change to your election must be consistent with your status change. Your Employer will consider your application and inform you of the decision.

All change requests received more than 30 days after the date the event occurred will not be processed. To make the change after this 30 day period, you will have to wait until the next annual enrollment period or a subsequent status change event, whichever occurs sooner.

Individuals Not Covered By This Plan

There are certain instances where an individual is a dependent for medical care coverage purposes but may not be your dependent for purposes of this Plan. For example, if you cannot claim the individual as a dependent on your federal income tax return, but the individual is eligible for coverage under your medical care coverage, the value of the medical coverage for this individual must be paid on an after-tax basis. In addition, domestic partners and same sex spouses are not eligible for the favorable tax treatment unless you can claim them as dependents on your federal income tax return.

Participation While On Leave

If you take a leave of absence for your own serious health condition or to care for family members with a serious health condition or to care for a newborn or adopted child, you may be able to revoke your election. If you revoke your election, you may also reinstate your election when you return to work. See your Employer for more information about your rights.

Termination Of Employment

If you stop working for your Employer, you will no longer be eligible to participate in this Plan and your election to participate will automatically terminate. This means that your medical care coverage premiums payable after you stop working for your Employer will be paid for on an after-tax basis (unless you subsequently become employed and enroll in another employer's cafeteria plan). In the event you become a participant in this Plan again within 30 days of the date you stopped being a participant and before the end of the same Plan Year, the elections you previously had in effect will automatically be reinstated for the balance of the Plan Year.

Keep in mind, your termination of employment does not affect your underlying medical care coverage. You can keep your medical care coverage in effect by simply continuing to make the required monthly premium contributions by sending after-tax payment directly to the Health Connector by the applicable due date.

Questions

If you have any questions or would like additional information, you can contact [the Employer] at [_____].