



ELIOT SPITZER
GOVERNOR

STATE OF NEW YORK
DEPARTMENT OF CIVIL SERVICE
ALFRED E. SMITH STATE OFFICE BUILDING
ALBANY, NEW YORK 12239
www.cs.state.ny.us

NANCY G. GROENWEGEN
COMMISSIONER

NY 07-53
PE 07-39
PA 07-30

To: Health Benefit Administrators

From: Employee Benefits Division

Subject: Enrollment Changes Permitted Under Pre-Tax Contribution Program

Date: December 6, 2007

Effective immediately, the enrollment changes permitted under the Pre-Tax Contribution Program when two NYSHIP enrollees with individual coverage acquire a newly eligible dependent and when two NYSHIP eligible individuals on one family contract no longer have any other eligible dependents have been expanded.

Prior to September 2004, NYSHIP permitted two enrollees with individual coverage to change to one family contract upon the birth of a child and two NYSHIP eligible individuals on a family contract were allowed to convert to two individual contracts upon the loss of eligibility by all other dependents, if the enrollees so elected.

Following the issuance of the final IRS Regulations, EBD reversed its position stated above based upon a restrictive interpretation of Regulation 1.125-4, that only those election changes necessary to accomplish the enrollment of a newly eligible dependent are permissible outside of the PTCP election period.

Upon further review of the final regulations and consultation with Office of Counsel in the IRS Health and Welfare Division, IRS Regulation 1.125-4 allows either our current more restrictive policy or our pre-September 2004 more permissive policy. From the IRS' perspective, either interpretation is permissible and is at the employers' discretion.

There will be no consideration of retroactive changes to enrollments as a result of our more restrictive policy because the IRS grants employers discretion in determining how they administer the Consistency Rule in these cases. Only prospective enrollments qualify for such enrollment changes will be permitted.