

Department of Human Resources Development
Amendments to Chapters 14-51 and 14-52
Hawaii Administrative Rules
(Date of Adoption)

1. Section 14-51-24, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

“(a) A benefit election may be voluntarily canceled or changed prior to the end of a period of coverage, if both of the following conditions are met:

- (1) The cancellation or change is on account of and is consistent with a change in status [, which includes] authorized under section 125 of the Code or under written guidance issued by the federal Treasury Department or the Internal Revenue Service, including but not limited to such events as: [marriage, divorce, or annulment of marriage; employment or loss of employment of a spouse which results in a change in health care coverage available from the spouse’s employer; birth or adoption of a child, or addition of a foster child; death of the employee’s spouse or dependent child; loss of eligibility of the last dependent child for coverage under the employee’s health care plan; termination or commencement of employment; reduction or increase in hours of employment by the employee, spouse, or dependent; commencement or return from an unpaid leave of absence; transfer to a non-eligible employment classification; moving from the geographic area covered by the employee’s carrier’s plan or moving into an area where other component plans are

available; and the joining of eligible dependents to the employee's household;]

- (A) A change in legal marital status (including marriage, divorce, death of spouse, legal separation, or annulment);
- (B) A change in the number of dependents (including birth, adoption, addition of a foster child, death of a dependent, or the addition of eligible dependents to the employee's household);
- (C) A change in employment status of the employee, employee's spouse, or the employee's dependent (including commencement or termination of employment, a strike or lockout, reduction or increase in hours of employment by the employee, spouse, or dependent, commencement of or return from an unpaid leave of absence, transfer to a non-eligible employment classification, a change to a new employment classification where other component plans are available or where the employee's carrier plan is not available, or a change in worksite);
- (D) A change that causes an employee's dependent to satisfy or cease to satisfy eligibility requirements for coverage (including attaining age, student status, or any similar circumstance);
- (E) A change in residence of the employee, spouse, or dependent where the employee's carrier's plan is no longer available or where other component plans are available;
- (F) A judgment, decree, or order resulting from a divorce, legal separation,

annulment, or change in legal custody (including a qualified medical child support order as defined in section 609 of ERISA) that requires accident or health insurance coverage for an employee's child or foster child who is a dependent of the employee;

(G) An entitlement or loss of entitlement to medicare or medicaid, or loss of entitlement to certain other governmental or educational institution group medical programs as defined under the Code;

(H) A significant change in the component plan costs or coverage terms, including the addition or elimination of a benefit plan;

(I) A change in coverage under another employer plan;

(J) A reduction in service hours that meets the following conditions:

(i) The employee has been in an employment status under which the employee was reasonably expected to average at least thirty hours of service per week (even if that change does not make the employee ineligible for coverage) and there is a change in that employee's status so that the employee will now be reasonably expected to average less than thirty hours of service per week after the change;
and

(ii) Upon cancellation of the election of coverage under the component plan, the employee attests to the plan in writing that the employee and any related individuals who

are no longer covered because of the cancellation, have enrolled or intend to enroll in another plan that provides minimal essential coverage with the new coverage; provided that the new coverage is effective no later than the first day of the second month following the month in which the date the original coverage was canceled;

- (K) Enrollment in a qualified health plan that meets the following conditions:
- (i) The employee is eligible for a special enrollment period to enroll in a qualified health plan through a health insurance exchange pursuant to guidance issued by the federal Department of Health and Human Services and any other applicable guidance, or the employee seeks to enroll in a qualified health plan through a health insurance exchange during the health insurance exchange's annual open enrollment period; and
 - (ii) Upon cancellation of the election of coverage under the component plan, the employee attests to the plan in writing that the employee and any related individuals who are no longer covered because of the cancellation have enrolled or intend to enroll in a qualified health plan through a health insurance exchange for new coverage that is effective beginning no later than the day immediately following the last day

the original coverage is canceled; or

- (L) Commencement of or return from a leave of absence provided through the Family and Medical Leave Act; and
- (2) A corresponding cancellation or change in the employee's component plan enrollment is acceptable under the administrative rules of the entity authorized by statute to administer the State's health benefit plans."

[Eff. 12/15/89; am 10/26/98; am 9/29/03;
am] (Auth: HRS 76-17) (Imp: HRS §78-30)

2. Section 14-52-2, Hawaii Administrative Rules, is amended by adding a new definition to read as follows:

"Limited rollover" means, with respect to any plan year beginning on or after January 1, 2013, an amount, not to exceed \$500, remaining in a participant's medical expense reimbursement spending account at the end of the plan year, including the time allowed for processing claims pursuant to section 14-52-60(b)."

[Eff 9/13/99; am 6/13/02; am] (Auth:
HRS §78-30) (Imp: HRS §78-30)

3. Section 14-52-22, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) The maximum annual amount of reimbursement or benefits a participant may receive for eligible medical expenses shall be \$2,400.

- (1) If both husband and wife are eligible employees and become participants of the plan, each may contribute a maximum annual amount of \$2,400.
- (2) The \$2,400 shall not include the participant's monthly administration fee[.] nor any amounts carried over from a prior year as a limited rollover."

[Eff 9/13/99; am] (Auth: HRS §78-30) (Imp: HRS §78-30)

4. Section 14-52-24, Hawaii Administrative Rules, is amended by amending subsection (c) to read as follows:

"(c) If any participant fails to file a new compensation reduction agreement during the enrollment period, the participant shall be deemed to have elected to receive cash compensation in lieu of the benefits under the plan and shall not be considered a participant in the plan. Notwithstanding the foregoing, an eligible employee shall continue to be considered a participant in the medical expense reimbursement spending account benefit of the plan for any subsequent plan year during which limited rollover funds remain."

[Eff 9/13/99; am] (Auth: HRS §78-30) (Imp: HRS §78-30)

5. Section 14-52-51, Hawaii Administrative Rules, is amended by amending subsection (d) to read as follows:

"(d) The maximum amount of a claim for reimbursement of eligible medical expenses shall be the amount specified in the participant's compensation reduction agreement[;] plus the amount of any limited rollover from a prior year; provided that whenever a

participant receives a reimbursement, the maximum amount shall be reduced by the amount of the reimbursement. The maximum amount of a claim for eligible dependent care expenses shall be the amount of contributions remaining in a participant's spending account."

[Eff 9/13/99; am 8/6/04; am] (Auth:
HRS §78-30) (Imp: HRS §78-30)

6. Section 14-52-60, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

"(b) Any balance remaining in a participant's spending [account(s)] account or accounts after ninety [(90)] calendar days following the end of the plan year in excess of any limited rollover, or ninety [(90)] calendar days following a cancellation in accordance with this chapter shall be forfeited by the participant, and the participant's spending account balance shall be reduced to zero for that plan year."

[Eff 9/13/99; am] (Auth: HRS §78-
30) (Imp: HRS §78-30)

7. Material, except source notes, to be repealed is bracketed. New material is underscored.

8. Additions to update source notes to reflect these amendments are not underscored.

9. These amendments to chapters 14-51 and 14-52, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

Director
Department of Human Resources
Development

APPROVED AS TO FORM:

Deputy Attorney General