Volume 22
Number 11
February 15, 2005
Pages 422 - 490

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules

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Secretary of State
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This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 85 copies have been prepared and distributed at a cost of $278.87. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.
ISSN 0030-1728

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2005 through March 17, 2005.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298, 405-522-4576, or at tgunter@oda.state.ok.us

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: tgunter@oda.state.ok.us

[OAR Docket #05-101; filed 1-25-05]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 45. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

[OAR Docket #05-102]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Water Quality Standards Implementation Plan [AMENDED]

SUMMARY:

The proposed rules amend the Department's Water Quality Standards Implementation Plan to comply with the revisions of the Oklahoma Water Quality Standards. The purpose of the plan is to identify how environmental programs within the Department comply with the Oklahoma Water Quality Standards.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), (7), (16), and (29) and 2-18.2; 27A O.S. Supp. 2000, § 1-1-202(B); Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written and oral comments to Teena Gunter at 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 15, 2005 through March 17, 2005.

PUBLIC HEARING:

A public hearing will be held at 10:30 a.m., March 17, 2005, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from February 15, 2005 through March 17, 2005.

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Teena Gunter, (405) 522-4576, e-mail address: tgunter@oda.state.ok.us

[OAR Docket #05-102; filed 1-25-05]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-156]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

The proposed change to Chapter 1 corrects the month of the year in which the Council may elect officers to comply with the statute.

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 4:45 p.m., Central Standard Time on March 18, 2005 at the following address: Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., Central Standard Time on March 18, 2005 at the offices of the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, Oklahoma. Interested persons can present their views at the public hearing, orally or in writing, but must sign in at the door no later than 10:00 a.m., Central Standard Time, March 18, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Russell Nash, Employees Benefits Council, (405) 232-1190 ext. 103.

[OAR Docket #05-156; filed 1-31-05]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 10. FLEXIBLE BENEFITS PLAN

[OAR Docket #05-126]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Flexible Benefits Plan [AMENDED]

SUMMARY:

The proposed changes to Chapter 10 memorialize longstanding eligibility rules administered by the Employees Benefits Council and eliminate a rule requiring retroactive changes in certain situations. More specifically, the proposed changes to Chapter 10 require coverage for all dependents when one dependent is covered under a flexible benefits plan; prohibit an employee from enrolling as a principle insured and also a dependent for any flexible benefit plan except dependent life; and require an employee to live or work within an HMO's service area as a condition to choosing HMO coverage. In addition, the proposed rules delete language that requires retroactive corrections in the event a dependent loses eligibility by reason of divorce, death or the attainment of a specified age.

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 4:45 p.m., Central Standard Time on March 18, 2005 at the following address: Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003.

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REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Russell Nash, Employees Benefits Council, (405) 232-1190 ext. 103.

[OAR Docket #05-126; filed 1-26-05]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 5. FEES

[OAR Docket #05-112]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

160:5-1-2. [AMENDED]

SUMMARY:

The rule is being amended to supersede the emergency rules that changed fees for mortgage brokers and mortgage loan originators pursuant to House Bill 1503 from the 2004 Second Regular Session of the 49th Legislature.

AUTHORITY:

Administrator of Consumer Credit; 14A O.S., §6-104(1)(e)

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL
CHAPTER 1. ADMINISTRATIVE OPERATIONS
SUBCHAPTER 3. ORGANIZATION & ADMINISTRATION

RULEMAKING ACTION:

Rule Impact Statement

PROPOSED RULES:

Subchapter 3. Organization & Administration

87:1-3-1(b) [AMENDED]

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

IMPACT STATEMENT:

Brief Description (75 O.S. §303(D)(2)(a)):

The proposed change to Chapter 1 correct the month of the year in which the Council may elect officers in order to be consistent with the existing statutory date. The statutory date is found at 74 O.S. § 1364(H) which states that, "The Council shall, in July of each year, hold a regular meeting which shall be the annual meeting, at which meeting it shall elect officers." Currently OAC 87:1-3-1(b) states that, "The Council shall elect officers each year at is January regular meeting."

Classes of Persons Affected by Rules (75 O.S. §303(D)(2)(b)):

The members and staff of Employees Benefits Council are the only persons affected by the proposed rule change.

Classes of Persons Who Will Benefit by Rules (75 O.S. §303(D)(2)(c)):

The rule changes will benefit those members of the public who are interested in the date when the members of the Council elect officers.

Probable Economic Impact Upon Affected Classes (75 O.S. §303(D)(2)(d)):

No fees are associated with the proposed changes. The Employees Benefits Council cannot foresee any economic impact upon affected classes of persons because the proposed changes to Chapter 1.

Probable Costs and Benefits to Enforcing Agency (75 O.S. §303(D)(2)(e)):

No additional cost to the Employees Benefits Council will occur because of the implementation or administration of the proposed rules. The implementation of the rule will not have an effect on state revenues.

Economic Impact on Political Subdivisions (75 O.S. §303(D)(2)(f)):

The proposed rule will not have an impact on political subdivisions as defined by 75 O.S. § 250.3(13).

Minimizing Costs and Alternative Methods (75 O.S. §303(D)(2)(g)):

The Employees Benefits Council does not anticipate any additional costs associated with the implementation of the proposed rules. Furthermore, non-regulatory or less intrusive methods do not exist as an alternative to the proposed changes to Chapter 1.

Effect on Public Health, Safety, and Environment (75 O.S. §303(D)(2)(h)):

The Employees Benefits Council does not anticipate any effects on the public health, safety or environment associated with the implementation of the proposed rules.

Detrimental Effects of Non-Implementation (75 O.S. §303(D)(2)(i)):

If the proposed rules to Chapter 1 are not implemented, the rules will be inconsistent with state law.

Rule Impact Statement Preparation Date (75 O.S. §303(D)(2)(j)):

February 15, 2005

TITLE 87 - OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL
CHAPTER 1 - ADMINISTRATIVE OPERATIONS
SUBCHAPTER 3 - ORGANIZATION AND ADMINISTRATION

87:1-3-1. Organization and meetings

(a) The Council consists of five (5) members. Section 1364 of Title 74 of the Oklahoma Statutes provides for their appointment and service.

(b) The officers of the Council are the Chairperson, the Vice-Chairperson and the Secretary. The Council shall elect officers each year at its ~~January~~ July regular meeting. An officer shall serve until replaced.

(c) The Chairperson shall preside over meetings and perform other duties as required by the Council. In the Chairperson's absence, the Vice-Chairperson shall assume the Chairperson's duties. In the absence of the Chairperson and the Vice-Chairperson, the Secretary shall assume the Chairperson's duties.

(d) Upon written notice by the Chairperson or by agreement of three members, a special meeting may be called. Notice of special meetings shall be delivered to all members not less than seven days prior to the date of the meeting. Lack of this notice may be waived by each member.

(e) A quorum of the Council is three members. A quorum must be present for the Council to conduct any business. Any action or decision of the Council requires an affirmative vote by at least three members of the Council.

(f) All meetings of the Council shall be conducted in accordance with the Open Meetings Act, Sections 301 through 314 of Title 25 of the Oklahoma Statutes.

(g) The Executive Director shall preserve all records of the Council.

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL
CHAPTER 10. FLEXIBLE BENEFITS PLAN
SUBCHAPTER 17. BENEFIT PLAN ELECTION

RULEMAKING ACTION:
Rule Impact Statement
PROPOSED RULES:
Subchapter 17. Benefit Plan Election
87:10-17-3 [Amended]
87:10-17-4 [Amended]
AUTHORITY:
Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.
IMPACT STATEMENT:
Brief Description (75 O.S. §303(D)(2)(a)):
The proposed changes to Chapter 10 memorialize longstanding eligibility rules administered by the Employees Benefits Council and eliminate a rule requiring retroactive changes in certain situations. More specifically, the proposed changes to Chapter 10 require coverage for all dependents when one dependent is covered under a flexible benefits plan; prohibit an employee from enrolling as a principle insured and also a dependent for any flexible benefit plan except dependent life; and require an employee to live or work within an HMO's service area as a condition to choosing HMO coverage. In addition, the proposed rules delete language that requires retroactive corrections in the event a dependent loses eligibility by reason of divorce, death or the attainment of a specified age.
Classes of Persons Affected by Rules (75 O.S. §303(D)(2)(b)):
State employees who meet the definition of "participant" as defined by 74 O.S. § 1363(14) and persons acting on their behalf are affected by the proposed rules.
Classes of Persons Who Will Benefit by Rules (75 O.S. §303(D)(2)(c)):
State employees who meet the definition of "participant" as defined by 74 O.S. § 1363(14) will benefit from the proposed rules.
Probable Economic Impact Upon Affected Classes (75 O.S. §303(D)(2)(d)):
No fees are associated with the proposed changes. The Employees Benefits Council does not foresee any economic impact upon affected classes of persons because the proposed changes to Chapter 10.
Probable Costs and Benefits to Enforcing Agency (75 O.S. §303(D)(2)(e)):
No additional cost to the Employees Benefits Council will occur because of the implementation or administration of the proposed rules. The implementation of the rule will not have an effect on state revenues.
Economic Impact on Political Subdivisions (75 O.S. §303(D)(2)(f)):
The proposed rule will not have an impact on political subdivisions as defined by 75 O.S. § 250.3(13). Only state employees who meet the definition of "participant" as defined by 74 O.S. § 1363(14) will benefit from the proposed rules.

Minimizing Costs and Alternative Methods (75 O.S. §303(D)(2)(g)):

The Employees Benefits Council does not anticipate any additional costs associated with the implementation of the proposed rules. Furthermore, non-regulatory or less intrusive methods do not exist for amending the requirements of Chapter 10.

Effect on Public Health, Safety, and Environment (75 O.S. §303(D)(2)(h)):

The Employees Benefits Council does not anticipate any effects on the public health, safety or environment associated with the implementation of the proposed rules.

Detrimental Effects of Non-Implementation (75 O.S. §303(D)(2)(i)):

If the proposed rules to Chapter 10 are not implemented, certain practices and information will not be clarified.

Rule Impact Statement Preparation Date (75 O.S. §303(D)(2)(j)):

February 15, 2005

TITLE 87. EMPLOYEES BENEFITS COUNCIL
CHAPTER 10. FLEXIBLE BENEFITS PLAN
SUBCHAPTER 17. BENEFIT PLAN ELECTION

87:10-17-3. Employee election of benefit plans

(a) Choices of benefit plans shall be made by a new eligible employee within thirty (30) days after date of employment. This thirty (30) day period shall be known as the employee's enrollment period. Each new employee failing to make such a valid election will be deemed to have elected employee-only coverage under the basic State health plan, basic State dental plan, basic State life plan, and basic State disability plan.

(b) Choices of benefit plans shall be made on a Plan Year basis by the eligible employees during the enrollment period as set by the Plan Administrator. The Plan Administrator will establish eligibility requirements for all benefit plan options each year.

(c) Eligible employees are required to elect medical, dental, life and disability plans except as provided in the following paragraphs. Employees who fail to make a valid election during each designated enrollment period will be deemed to have elected the same plans elected during the most recent enrollment period during which a valid election was made. Where the plan(s) will no longer be available for the upcoming Plan Year, employees will be deemed to have elected HealthChoice High Option health plan and/or HealthChoice Dental.

(1) An eligible employee who has retired from a branch of the United States military and has been provided with health coverage through a federal plan can elect not to participate in the Flexible Benefits Plan only if the following conditions are met prior to the close of each annual enrollment period beginning with the enrollment period for Plan Year 2004:

(A) The employee must provide proof that he or she is retired from a branch of the United States military; and

(B) The employee must provide proof of health coverage through a federal plan; and

(C) The employee must make a proper election not to participate in the Flexible Benefits Plan.

(2) The Council has the authority to determine the type of information that satisfies the requirements of this subsection.

(3) An eligible employee making an election not to participate under paragraph (1) of this subsection must make such an election each Plan Year.

(A) An employee who is eligible to make an election not to participate under paragraph (1) of this subsection and has never previously made an election not to participate under paragraph (1) of this subsection, may, during the enrollment period, enroll in the Flexible Benefits Plan or may make an election not to participate under paragraph (1) of this subsection. If the employee who is eligible to, but has never previously made an election not to participate under paragraph (1) of this subsection, fails to enroll in the Flexible Benefits Plan and fails to make an election not to participate under paragraph (1) of this subsection, the employee will be deemed to have elected coverage that was in effect during the previous Plan Year. Where the plan(s) will no longer be available for the upcoming

Plan Year, employees will be deemed to have elected HealthChoice High Option health plan and/or HealthChoice Dental.

(B) An employee who is eligible to make an election not to participate under paragraph (1) of this subsection and has previously made an election not to participate under paragraph (1) of this subsection, may, during the enrollment period, enroll in the Flexible Benefits Plan, or may make an election not to participate under paragraph (1) of this subsection. If an employee who has previously made an election not to participate under paragraph (1) of this subsection fails to enroll in the Flexible Benefits Plan and fails to make an election not to participate under paragraph (1) of this subsection during the annual enrollment period, the employee will be deemed to have elected employee-only coverage under the HealthChoice High Option health plan, the HealthChoice dental plan, the basic State life plan, and the basic State disability plan.

(4) Except as provided by the applicable provisions of OAC 87:10-17-4, an eligible employee making an election not to participate under paragraph (1) of this subsection is prohibited from participating in any health plan, dental plan, life plan, supplemental life plan, dependent life plan, and disability plan at any time during the Plan Year for which he or she made the election. Upon re-entry into the state benefits package either through an acceptable midyear event or at the annual Option Period enrollment, benefit options which were declined through the opt-out election by retired military state employees will not automatically be reinstated. The retired military employee must reapply for and be approved through satisfactory evidence of coverage (EOI) before any amounts of Supplemental Life Insurance will again be issued. Only the Basic Life amount (20,000) will be automatically reinstated upon such re-entry. No Guaranteed Issue levels of Supplemental Life will be available. Furthermore, if no proof is submitted showing previous dental coverage, then the $250 limit of benefits for HealthChoice Dental will be applied for the first year following reenrollment.

(5) Except as provided by the applicable provisions of OAC 87:10-17-4, an eligible employee making an election not to participate under paragraph (1) of this subsection is prohibited from electing coverage for his or her dependents under any health plan, dental plan, life plan, supplemental life plan, dependent life plan, and disability plan prior to or at any time during the Plan Year for which he or she made the election.

(6) An eligible employee making an election not to participate under paragraph (1) of this section may continue participation in any of the following:

(A) Benefit plans available under the Flexible Benefit Plan other than a health plan, dental plan, life plan, supplemental life plan, dependent life plan, and a disability plan;

(B) Health Care Reimbursement Account Option;

(C) Dependent Care Reimbursement Account Option; and the

(D) Insurance Premium Conversion Option.

(d) Each employee who meets the eligibility requirements but fails to make a proper election under the Flexible Benefits Plan shall be deemed a participant in the Flexible Benefits Plan.

(e) Coverage shall be effective for a new participant beginning on the first day of the month following the participant's first day in an active pay status.
(f) Eligible employees may elect to cover a dependent under the following insurance plans: health insurance, dental insurance, dependent life insurance, or vision insurance. When one eligible dependent is covered, all eligible dependents must be covered for all plans except the dependent life insurance plan. An eligible employee cannot be enrolled as a principal insured and also as a dependent for any benefit options except dependent life.
~~(f)~~(g) Primary participants electing coverage for eligible dependents cannot enroll the dependents in a benefit plan or a coverage that differs from the benefit plan or coverage chosen by the primary participant.
~~(g)~~(h) An affirmative election of a vision plan is required for each Plan Year.
(i) In order for an eligible employees to choose health plan coverage under a Health Maintenance Organization (HMO) plan, the eligible employee must reside or be employed within the selected HMO's service area.

87:10-17-4. Changes to benefit elections
(a) A participant may change an election only in accordance with the provisions of this Plan. This Section does not remove the requirement that every employee must enroll in at least the basic plan of coverage except for those employees declining participation pursuant to 87:10-17-3(c)(1).
(b) All requests for changes submitted to the Plan Administrator must be in a format as determined by the Plan Administrator.
(c) Provided that all other eligibility requirements are met, and written or electronic notice is provided to the Plan Administrator within thirty (30) days of a qualifying event, including receipt of a Qualified Medical Child Support Order, the effective date of such change of benefits coverage will be the first of the month following receipt of acceptable notice as determined by the Plan Administrator as long as the correct premium is paid. All enrollments and elections are for the entire Plan Year and are irrevocable during same Plan Year unless a change is requested based on one of the following permitted exceptions to the irrevocability rule. A change must comply with the IRS consistency rule as found in Treasury Regulations 1.125-4 as may be amended. Only the permitted exceptions provided for in this chapter shall be allowed as changes to benefits elections unless those changes are prohibited under the Premium Conversion Option, the Dependent Care Reimbursement Account Option or the Health Care Reimbursement Account Option as provided for in subchapters 23, 25, and 27 respectively. All changes shall become effective on a prospective basis and not earlier than the first day of the month following receipt of acceptable notice of the requested change which must be on account of and corresponding with the event. Permitted exceptions to the irrevocability rule as allowed within Plan guidelines are as follows:
(1) HIPAA Special Enrollment Rights (marriage, birth, adoption or placement for adoption, loss of other coverage including exhaustion of COBRA coverage)
(2) Change in Employee's Legal Marital Status
(3) Change in the Number of Employee's Dependents
(4) Change in Employment Status of Employee, Spouse or Dependent that affects eligibility

(5) Event Causing Employee's Dependent to satisfy or cease to satisfy Eligibility Requirements
(6) Change in Place of Residence of Employee, Spouse or Dependent
(7) Commencement or Termination of Adoption Proceedings
(8) Judgments, Decrees or Orders (changes allowed only to Health, Health Care Reimbursement Account and Dental)
(9) Medicare or Medicaid (changes allowed only to Health and Health Care Reimbursement Account)
(10) Significant Change in Cost or a Change in Coverage (changes allowed only to Dependent Care Reimbursement Account)
(11) Changes in Coverage of Spouse or Dependent under Other Employer's Plan
(12) FMLA Leave
(13) Such other events, which may permit such modification or election under the IRS consistency rule as found in Treasury Regulations 1.125-4 and in accordance with other applicable and prevailing Internal Revenue Code regulations promulgated thereunder, and in accordance with this chapter.
(d) The following are the only permitted exceptions that may become effective on a retroactive basis beginning the first day of the event month. Such events require receipt of acceptable notice by the Plan Administrator or its designee within thirty (30) days of the event:

(1) Newborn children who may be covered from the first of the birth month provided the proper documentation is submitted within thirty (30) days of the birth event and provided that the full monthly premium is paid.

(2) Adopted eligible dependent children, those placed for adoption, and eligible children for whom guardianship has been newly granted to the insured or to the insured's spouse and for whom coverage may begin from the first day of physical custody even though a full month's premium must be paid; or at the insured's option may be covered beginning the first of the month following placement.

~~(e) Termination of coverage for a spouse and/or dependents who have ceased to satisfy eligibility as a result of divorce, death or attaining a specified age shall become effective on the first of the month following the date of the event.~~
~~(f)~~(e) The Plan Administrator reserves the right to make any corrections necessary if an error was made regarding the effective date.