

### **Can health plan elections be changed retroactively?**

Limited retroactivity is allowed to correct health plan elections. All requests for changes outside of an agency's keying limitation of 59 days must be submitted in writing by the Agency Benefits Administrator to DHRM's Office of Health Benefits for consideration based on DHRM policy, IRS regulations imposed on cafeteria (pre-tax) plans, and contractual limitations (12 months maximum retroactivity for self-insured plans and 60 days for the fully-insured plan). Agencies should be aware that an employee may wish to seek remedy from the agency in the case of agency error if the period of retroactivity does not afford the employee full remedy.

Premium refunds to agencies that result from agency error will be based upon a correction of the corresponding BES record. Agencies are also subject to the 59-day keying limitation when making retroactive corrections in BES. If the BES record does not correspond to the refund request, DOA will not issue a refund. In most cases, DHRM will not authorize retroactive refunds beyond the 59-day limit.

In the case of enrollment in error of an ineligible person, the Administrative Code of Virginia (1VAC55-20-210.B) states:

Employer contributions on behalf of ineligible persons shall not be returned to the participating employer in as much as the employer agrees by participating in the health benefits program that the amount of such contributions constitute liquidated damages for enrolling ineligible employees and/or their dependents. Employee contributions will not be refunded, and the membership level and contributions rate will be maintained, at the level they had been prior to the removal of the ineligible dependent, until such time as the employee makes a membership change due to a consistent qualifying midyear event, or during open enrollment.