



What Employers Need to Know Right Now About Health Care Reform

An Employer's Guide to Annual Group Health Plan Notices

Employers that sponsor group health plans are required to give eligible employees a number of notices each year. **Some notices must be given by a particular date**, and some must be given as part of the enrollment packet. (This means that non-calendar year plans may need to provide the exchange and Medicare Part D notices this fall, and the other notices with their open enrollment materials.)

The chart below provides a summary of the required annual notices. Unless the chart says that a requirement only applies to a specific group, the notice must be given by all employers, no matter how small they are, and regardless whether they are a private, government, church or not-for-profit employer.

A Word document that includes models of all required federal notices except the SBC is attached. (A link to the SBC templates is in the chart, should you need this.) *You should delete the notices that do not apply to your situation. You should also review each notice you do need to give, modify it as needed to describe your plan, and fill in any blanks.*

All of the annual notices also should be given to new enrollees. In addition, new enrollees must be given a COBRA notice (if you employ at least 20 people) and a notice of special enrollment rights. Other notices must be given to participants in certain situations – this guide does not address those notices.

Spanish versions – and originals of the English versions – of many of the notices are available on the [U.S. Department of Labor website](#) or on the [Centers for Medicare & Medicaid Services website](#).

The plan administrator (typically the employer) needs to take steps to be sure that the notices are received. Notices may be mailed (first class to the employee's home address) or hand delivered. Providing copies in a central location is not adequate.

Notices may be provided electronically, as long as the employee regularly uses a computer as part of his or her job. If an electronic notice is provided, the employer must:

- Provide either electronic or non-electronic notice to each recipient explaining the significance of the notice and that a paper copy is available, at no charge, with instructions on how to obtain the paper copy.
- Use the return-receipt feature, the undelivered mail feature, or conduct periodic reviews or surveys to confirm that the materials are being received and to help ensure receipt.

If the employee does not use a computer as part of his or her job, the employee must provide specific permission to receive a notice electronically each time the notice is given. If you have some employees who regularly use computers and others who do not, you may distribute the notices electronically to those who use computers and provide paper notices to those who do not.

You do not need to get paper or electronic signatures from employees acknowledging that they have received the notices (although you may do this if you want to). You should always retain evidence that the notices were given, including a copy of each notice, the date it was provided, and who received it (as either a class or individually). You do not need to give a separate notice to a spouse or dependent child unless you know the family members are living apart. (A college student is not considered to be living apart.)

Notice	Due Date	Special Rules
Exchange Notice	Oct. 1, 2013 (one-time notice)	Must give to all employees, even those who are not eligible for the plan.
Part D Notice	Each year, by Oct. 14	Must give to all employees, retirees and dependents who are or may become eligible for Medicare Part D during next 12 months. Due to difficulty identifying dependents who may be Medicare-eligible, many employers provide the notice to all employees.
SBC	When enrollment materials are provided; if make a mid-year change that affects SBC, must provide updated SBC 60 days before change is effective	Insurer will prepare for insured plans, but employer remains responsible for seeing that SBC is distributed. The SBC templates are available on the Department of Labor website at Patient Protection and Affordable Care Act (scroll down to "Summary of Benefits and Coverage and Uniform Glossary"). Use the version labeled "authorized for second year of applicability" for 2014 plan years and the version labeled "authorized for first year of applicability" for any plan year beginning in 2013.
Women's Health & Cancer Rights	Once each year	
Notice of Pre-existing Condition Limitation	With enrollment materials	
HIPAA Notice of Privacy Practices (updated)	First annual mailing after Sept. 23, 2013 (or by Nov. 22, 2013 if no annual mailing); must provide every 3 years, or if changes are made to notice	Also must post on benefits website (if have one) by Sept. 23, 2013
CHIP Notice	Annually, by first day of plan year	Only provide if state provides premium assistance with Medicaid or CHIP (i.e., state is listed in the notice)
Wellness Program Disclosure	Whenever the program is described in detail	Only provide if sponsor a wellness program that takes health into account
Grandfathered Plan Notice	When enrollment materials are provided; also include in SPD	Only provide if plan is grandfathered
Exemption from HIPAA	When enrollment materials are provided	Only provide if a government plan that has opted out of parts of HIPAA

Exchange/Marketplace Notice

The exchange notice is new for 2013. All employers must provide the notice, whether they provide group health coverage or not, unless they are a business with less than \$500,000 in annual dollar volume of business. (Hospitals and other health care facilities, schools (from pre-school through university) and governments must give the notice no matter how small they are.)

The notice must be given to all employees, whether they are full-time, part-time or temporary, and whether they are eligible for coverage or not, by Oct. 1, 2013. Employees hired after Oct. 1, 2013 (or the notice distribution date) must be given the notice within 14 days after their start date.

The Department of Labor has provided two model notices – one for employers that offer coverage and one for those that do not. It appears that if the employer offers coverage to some, but not all, classes of employees it may give the “offers coverage” notice to everyone – the form requires the employer to describe its eligibility requirements on page 2, which will put those who are not eligible on notice.

Based on the current instructions, employers that offer coverage do need to state on page two whether their plan offers affordable, minimum value coverage. (To date, the delay to the employer shared responsibility requirements has not affected the content of the notice.) An employer can use the Department of Health and Human Services (HHS) [calculator](#) (in the right-hand column) to determine whether its plan provides minimum value. When completing the affordability section, employers with wellness programs should use the non-smoking premium rate for all employees. No other wellness incentives may be considered. Employers that offer coverage may, but are **not** required to, complete page three of the notice.

The exchange notice does not vary by state. (The notice directs employees to the HHS website, which has state-specific information.)

Employers are required to provide their employer ID number (EIN) on the notice. This should not be concerning – EINs do not need to be protected the way Social Security numbers are.

Employers are free to modify this notice to better describe their situation, as long as all of the required information is included. It is possible that additional instructions or revised models will be provided closer to Oct. 1, so employers in a position to wait may wish to do so. If there is an update, those who have distributed the current model will not need to provide the updated version.

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This information is general and is provided for educational purposes only. It reflects UBA's understanding of the available guidance as of the date shown and is subject to change. It is not intended to provide legal advice.

You should not act on this information without consulting legal counsel or other knowledgeable advisors.