

Annual Notice Requirements / Considerations

There are several notices that plan sponsors are required to provide to plan participants each year. Most groups provide these notices as part of open enrollment communications. Federal health reform (under the Affordable Care Act) also has several notice requirements. Below are the items that plan sponsors should consider including in this year's open enrollment communications/enrollment processes, as applicable. We have also included the links to model notices.

All Group Health Plans Must Provide the Following on an Annual Basis:

1. **Women's Health and Cancer Rights Act (WHCRA)** - Requires the availability of certain reconstructive surgery following mastectomy. Notice of required benefits must be furnished upon enrollment and annually. www.dol.gov/ebsa/publications/whcra.html
2. **Medicare Part D Creditable Coverage** - Required by October 15th for group health plans that provide prescription drug coverage to Medicare Part D eligible individuals, including active employees, COBRA participants, retirees and dependents. www.cms.hhs.gov/CreditableCoverage/40_CCDisclosure.asp
3. **Children's Health Insurance Program Reauthorization Act (CHIPRA)** - Requires an annual written notice be provided to each employee informing them of potential opportunities in their state of residence to obtain Medicaid and/or CHIP premium assistance. The notice must be provided prior to the first day of the plan year. If distributing electronically, the plan sponsor needs to ensure the requirements of the DOL's electronic disclosure safe harbor are met. www.dol.gov/ebsa/chipmodelnotice.doc

Affordable Care Act Notice Requirements:

1. **Summary of Benefits and Coverage (SBC)** – Group health plans will be required to furnish an SBC to all benefits-eligible employees for each medical plan offering. The SBC is a uniform explanation of benefits that is required in addition to existing ERISA disclosure requirements (i.e. SPD). Regulations specify language and format that must be used. The disclosure rules apply to the first open enrollment period beginning on/after September 23, 2012 for participants and beneficiaries enrolling during open enrollment. For other enrollees, (i.e., newly eligible individuals), the rules apply the first day of the first plan year beginning on or after September 23, 2012. If distributing electronically, the plan sponsor needs to ensure the requirements of the DOL's electronic disclosure safe harbor are met. The DOL has issued two FAQs that address content and distribution: <http://www.dol.gov/ebsa/faqs/faq-aca8.html> and <http://www.dol.gov/ebsa/faqs/faq-aca9.html>.

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Affordable Care Act Notice Requirements (cont.):

2. **Patient Protection Disclosure** (*applies only to non-grandfathered plans*) – Plans that require the designation of a primary care physician (PCP) must provide a notice on patient protections under health care reform whenever the plan or issuer provides a participant with a summary plan description or other similar description of benefits under the plan or health insurance coverage. (*Plans that do not require/allow PCP designations are not required to provide this notice.*)
www.dol.gov/ebsa/patientprotectionmodelnotice.doc
3. **Grandfathered Plan Status** (*applies only to grandfathered plans*) – Grandfathered health plans must include language, in any plan materials describing the plan's benefits, indicating that the plan believes it is a grandfathered health plan under the health care reform law and must provide contact information for questions and complaints.
www.dol.gov/ebsa/grandfatherregmodelnotice.doc

Massachusetts Health Reform Notice Requirements:

1. **Employee Health Insurance Responsibility Disclosure (HIRD) Form** - Required when employee declines employer-sponsored health plan or Section 125 cafeteria plan – annually within 30 days of open enrollment or date of hire.
www.mass.gov/Eeohhs2/docs/dhcfp/g/hcr/employee_hird_2010.doc
2. **Form MA 1099 HC** - Must be provided annually on or before January 31st to each plan participant who is a MA resident. *Most health plans issue the form directly to participants, but we encourage plan sponsors to confirm this with their health plan partner.*

Disclaimer - This document outlines only certain notice requirements. There are a number of other notice and disclosure requirements applicable to group health plans. Further, SBA is not a law firm and therefore nothing in this document should be construed as legal advice.