

Notice to Employees of Coverage Options on the Health Insurance Marketplace

The “Health Insurance Marketplace” (Marketplace) is the new name for public Exchanges. The Affordable Care Act requires most employers to provide a new notice to employees regarding the Marketplace. The notice must broadly describe the existence of the Marketplace and the ramifications if an employee purchases individual coverage on the Marketplace instead of enrolling in the employer’s coverage. As outlined below, model notices are available.

In [Technical Release 2013-02](#), the Department of Labor (DOL) provides temporary guidance regarding this notice requirement.

- **Timing:** The notice must be provided to current employees no later than October 1, 2013, and to employees hired on or after that date within 14 days of the employee’s start date.
- **Recipients:** The notice must be provided to all full-time and part-time employees regardless of medical plan eligibility or enrollment, but not to spouses, domestic partners or dependent children. The notice does not need to be provided to retirees.
- **Delivery:** The notice must be provided in writing, can be provided by first class mail, and may be provided electronically if the requirements of the [ERISA electronic disclosure rules](#) are satisfied. (As an example, employers that are able to distribute SPDs electronically can likely distribute this Marketplace notice electronically.)
- **Content:** The notice must include required content related to the Marketplace, including contact information and a description of services. The notice must also outline certain ramifications of an employee’s purchase of individual coverage on the Marketplace, including the loss of employer contributions for employer-provided coverage.
- **Model notices:** Employers may satisfy the notice requirements by providing one of two model notices.
 1. The first model notice is intended for employers that offer health plan coverage to some or all employees – <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>.
 2. The second model notice is intended for employers that do not offer health plan coverage – <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>.

Both model notices require the employer to fill in several items of administrative information (including the employer name, address, EIN, etc.). The model notice for employers that offer health plan coverage also requires the employer to fill in several items of health plan information including plan eligibility requirements and whether plan coverage satisfies minimum value and affordability standards. There is an optional section that provides information that employees will need to complete the application for Marketplace coverage. (This optional information is required in the application for [Family](#) coverage, but is not currently required in the application of [Individual](#) coverage.)

Notice to Employees of Coverage Options on the Health Insurance Marketplace

- **Model notices continued:**

We note that employers may be required to develop multiple notices and determine which employees receive the corresponding notice. For example, if coverage is not affordable for all employees, different notices will be required. If an employer elects to complete the optional information, then different notices will be required if individual contribution rates for the lowest plan option vary. SBA will work with clients to determine if the optional section is expected to be relevant to the respective workforce.

Technical Release 2013-02 also includes **a revised version of the model COBRA election notice**, which has been updated to inform qualified beneficiaries that they may be eligible for premium tax credits for individual coverage purchased through the Marketplace: <http://www.dol.gov/ebsa/modelectionnotice.doc>. The guidance does not specify an effective date but it appears that employers can begin to use this new election notice now.

Use of the model notices, when properly completed, will be considered good faith compliance by the Department of Labor. Employers can modify the notices and the safe harbor will apply as long as applicable content requirements are met.

Please contact Strategic Benefit Advisors with any questions.
508-485-4000 | www.strategicba.com