
THE GROUP BENEFIT NEWS BULLETIN

Update on Health Care Reform

Notice to Employees of Exchanges

UPDATE: The Department of Labor has made available Model Notices for Employers to utilize in the notification of Exchanges/Marketplaces to their employees. There is a Model Notice for Employers who provide health coverage which can be found at the following link: <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>

There is also a Model Notice for Employers who do not provide health coverage which can be found at the following link: <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>

Background:

Early in 2013, the US Department of Labor (DOL) notified employers that the requirement to make employees aware of Exchanges was delayed from its original date of March 1st until further guidance was issued. On May 8th, 2013, DOL released temporary guidance requiring that all employers subject to the Fair Labor Standards Act (FLSA) notify their employees by October 1st, 2013 (to coincide with the marketplace Open Enrollment) that the Exchanges will be open January 1st, 2014.

The notice is a one-time requirement in October and must be supplied to all newly-hired associates thereafter. For new-hires, if the notice is provided within 14 days of the employees' start date, then it is considered to be delivered at the time of hire. All full-time and part-time employees must be notified, regardless of whether the employee is enrolled in an employer-sponsored medical plan. Even if an employer does not offer medical coverage, the employee must be provided this notice. Employers are not required to supply the notice to employees' dependents.

The notice must include:

- Verbiage that the Exchange or Marketplace exists and the services provided within it, and direction for employees to visit Healthcare.gov for more information.
- Employees may be eligible for premium tax credits if their employer does not provide "affordable" coverage with "minimum value." Coverage is affordable if the employee-only rate does not exceed 9.5% of an employee's Box-1 income on their W-2. Coverage is deemed to be of minimum value if the plan pays at least 60% of allowed charges for covered services.
- Coverage through an Exchange or Marketplace is purchased with after-tax dollars.
- Information about medical coverage that is offered to the employee by the Employer.

COBRA notices are also to be updated to inform eligible employees and dependents of the alternatives available through the Health Insurance Marketplace.

Additionally, the notice may be delivered electronically if all ERISA standards for electronic transmission are met.

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As always, this material is intended for informational purposes only and is not to serve as instruction or legal counsel.