

Health Care Reform: Notice to Employees about the Exchange

Overview

The US Department of Labor (DOL) issued new guidance on the Employer Requirement to Notify Employees about the Health Insurance Exchange. This guidance is effective immediately and can be followed until DOL issues new information.

The notice must be provided in writing, either by mail or electronically, to **all employees**, even if they are not eligible for health insurance coverage under your plan.

The information below reflects federal guidance as of May 2013. We'll keep you updated when new guidance becomes available.

Who needs to provide the notice?

- Any employer that is subject to the Fair Labor Standards Act (FLSA)
 - Applies to employers who offer health insurance **and** employers who don't
 - Includes employers who offer self-insured and insured plans

When is it due?

- **Current employees:** No later than October 1, 2013
- **New employees:** Beginning October 1, 2013
- Until new guidance is issued, employers will have 14 days to provide the notice to new employees

Is there a template for the notice?

Yes. DOL provided two model notices:

- Employers who currently **offer health insurance** to any or all employees can use this notice: <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>
- Employers who **do not offer health insurance** to any employees can use this notice: <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>

The Model Notice does not have to be used. Employers have the option to draft their own notice as long as it includes:

1. A description of what Exchanges are, what they provide, and where employees can go to find more information about them;
 2. Information regarding available tax credits if the employer doesn't provide minimum essential coverage and the employee purchases health insurance on the Exchange;
- and**
3. A statement that employees who purchase coverage on the Exchange may lose any employer contributions and that these contributions may be excludable from employees' income when they file their Federal income tax

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COBRA Election Notice updates

DOL also released an updated COBRA election notice that adds information about obtaining coverage through the Exchange and removes language about pre-existing condition exclusions.

Employers do not have to use the new notice, but its use will be considered good faith compliance of the COBRA election notice requirement.

More information on the Notice to Employees and updated COBRA election notice can be found here:
<http://www.dol.gov/ebsa/newsroom/tr13-02.html>

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