

## GETTING READY FOR OPEN ENROLLMENT

Sep 16, 2011

The fall is the time many employers with calendar year group health plans begin to prepare for open enrollment. Below is a list of required notices that employers should consider including in their enrollment materials.

- **COBRA Notice.** Plan administrators must provide a written initial COBRA notice to each employee and his or her spouse when group health plan coverage first commences of his or her rights under the Consolidated Omnibus Budget Reconciliation Act of 1986 (“COBRA”). This notice must contain specific information, and the Department of Labor has issued a model notice.
- **HIPAA Privacy Notice.** If the group health plan is required to maintain a notice of privacy practices under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the notice must be distributed upon an individual’s enrollment in the plan. Notice of availability to receive another copy must be given every three years.
- **Special Enrollment Rights.** A group health plan must provide each employee who is eligible to enroll with a notice of his or her HIPAA special enrollment rights at or prior to the time of enrollment. Among other things, this notice must describe the recently enacted rights afforded under the Children’s Health Insurance Program Reauthorization Act.
- **CHIP Premium Assistance Notice.** Employers must also provide notices annually to employees regarding available State premium assistance programs that can help pay for coverage under the plan and how to apply for it.
- **Pre-existing Condition Exclusion Notice.** If the plan contains pre-existing condition exclusions, subject to the limitations provided under the Patient Protection and Affordance Care Act, as amended (“PPACA”), a notice describing the exclusions and how prior creditable coverage can reduce the exclusion period must be provided to participants as part of any written enrollment materials. If there are no written enrollment materials, the notice must be provided as soon as possible after a participant’s request for enrollment.

- **Women's Health and Cancer Rights Act Notice.** The Women's Health and Cancer Rights Act requires that a notice be sent to all participants describing required benefits for mastectomy-related reconstructive surgery, prostheses, and treatment of physical complications of mastectomy. This notice must be given to plan participants upon enrollment and then annually thereafter. The Department of Labor has developed model language to fulfill this requirement.
- **Medicare Part D Notice.** Group health plans providing prescription drug coverage must provide a notice to any individual covered by or eligible for the group health plan who is eligible for Medicare (an "eligible individual"). The notice must explain whether the plan's prescription drug coverage is creditable. Coverage is creditable if it is actuarially equivalent to coverage available under the standard Medicare Part D program. In order to satisfy the distribution timing requirements, the notice is generally distributed upon an individual's enrollment in the plan, each year during open enrollment (before the new enrollment commencement date of October 15) and during the plan year if the status of the coverage changes (either for the plan as a whole or for the individual).
- **Summary of Material Modification.** Changes in plan design must be reflected in a summary of material modification ("SMM") or updated summary plan description ("SPD") timely distributed to eligible employees. If a plan change involves a material reduction in covered services or benefits, an SMM or an updated SPD must be furnished within 60 days after adoption of the change. Open enrollment may present the best time to distribute these materials. Note that this obligation is independent of the PPACA requirement to issue an SMM at least 60 days before a modification to a summary of benefits becomes effective.

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