

Open Enrollment is a good time to distribute required notices and legal information to employees. This list includes examples of required communications and other health plan notices.

Basic Information

- Election instructions
- Benefit descriptions/summaries
- Employee contributions/out-of-pocket costs
- Eligibility criteria for employees and dependents
- Essential information to help make enrollment decisions (eligibility, taxes)
- Key information on plan conditions, such as High-deductible Health Plan (HDHP), Health Savings Account (HSA), Flexible Savings Account (FSA)

Helpful Information

- Tax implications for non-tax dependents
- Results of enrollment of ineligible individuals (disciplinary policy)
- Any legal disclaimers (benefits are not guaranteed; may be changed any time; plan document controls)

ACA Requirements

Grandfathered Plan Status

A grandfathered plan is a health plan that was in existence when the Affordable Care Act (ACA) went into effect in 2010 and has continued to meet certain guidelines. If plan changes exceed these guidelines, it will no longer be grandfathered.

- If a plan is grandfathered, determine whether it will retain its grandfathered status for the 2021 plan year. Grandfathered plans are exempt from some (but not all) ACA requirements. A grandfathered plan's status will affect its compliance requirements.
- If a grandfathered plan becomes non-grandfathered, it must comply with all patient rights and benefit provisions required by the ACA.
- Non-grandfathered health plans are subject to IRS limits on cost sharing or out-of-pocket maximums for coverage of essential health benefits. The 2021 plan limits will increase to \$8,550/person and \$17,100/family. Note: ACA limits are not identical to the out-of-pocket maximums for HSA-compatible High-Deductible Health Plans.

- Coverage Certificate (Certificate)**
Certificates (including the applicable Benefit Summaries) for all offered medical plans must be provided to eligible employees at open enrollment and upon request.
- Health Savings Accounts (HSAs)**
HSAs that are compatible with High-deductible Health Plans (HDHPs) are subject to IRS limits. The 2021 HSA annual contribution limits for coverage under an HDHP will be \$3,600/individual (self-only) and \$7,200/family. Minimum required deductibles will be \$1,400/self-only and \$2,800/family. The 2021 maximum out-of-pocket expense limits will be \$7,000/self-only and \$14,000/family.

Notices

- Grandfathered Plan Notice**
Provide to eligible employees at enrollment. Included in Certificate.
- Patient Protection Notice (aka Physician Designation Notice)**
Provide to eligible employees at enrollment. Applies to non-grandfathered plans.
- Children's Health Insurance Program (CHIP) Notice**
Provide annually to all employees living in states listed in the most current Department of Labor (DOL) Model Employer CHIP notice. May be provided at enrollment.
- Newborns and Mothers Health Protection Notice**
Included in Certificate.
- Women's Health and Cancer Rights Act (WHCRA) Notice**
Provide at time of enrollment and annually. Included in Certificate.
- Notice of HIPAA Special Enrollment Rights**
Provide at time of enrollment.
- Notice of HIPAA Privacy Rights**
Provide at time of enrollment in self-funded plan (including health FSA) per applicable distribution rules. Insurers provide the HIPAA privacy notices for the insured plans.
- Michelle's Law Notice**
If a group health plan (or insurance issuer providing coverage for the plan) requires a certification of student status for coverage, it must send a Michelle's Law Notice along with any notice regarding the certification requirement. The notice must be written in language understandable to a typical plan participant and must describe the terms of the continuation coverage available under Michelle's Law during medically necessary leaves of absence.
- Medicare Part D Notice of Creditable Coverage and/or Notice of Non-creditable Coverage**
For plans that cover prescription drugs, provide notice to eligible employees annually before October 15. Model notices are available at www.cms.gov/creditablecoverage.
- Wellness Program Notice**
Employers who offer wellness programs that collect employee health information are required by the Equal Employment Opportunity Commission (EEOC) to give participating employees a notice stating:
 - What information will be collected as part of the wellness program
 - With whom the collected information will be shared and for what purpose
 - The limits on disclosure of this information
 - How the information will be kept confidential
- Wellness Program Notice of Alternative Standard**
If you sponsor a wellness program offering incentives to employees who participate, you must offer alternative standards to employees for whom it is unreasonably difficult or inadvisable to meet the standard.

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