

Open Enrollment provides an opportunity 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
- Benefit elections are binding for plan year, unless status change occurs (include examples)
- Essential information to help make enrollment decisions (eligibility, taxes)
- Key information regarding 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
- Statement that enrollment guide constitutes a Summary of Material Modifications (SMM) regarding benefit changes required to be in Evidence of Coverage (EOC)
- Consequences of enrollment of ineligible individuals (e.g., disciplinary policy)
- Legal disclaimers (e.g., 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) was enacted on March 23, 2010, and has continuously adhered to certain guidelines. If plan changes exceed these guidelines, the plan will no longer be grandfathered.

- If a plan is grandfathered, determine whether it will maintain its grandfathered status for the 2018 plan year. Grandfathered plans are exempt from some (but not all) of the ACA requirements. A grandfathered plan's status will affect its compliance requirements.
 - If a grandfathered plan becomes non-grandfathered, it must immediately comply with all additional patient rights and benefit provisions required by the ACA. (Examples: in-network preventive care covered at 100%, limits on out-of-pocket maximums)
 - Non-grandfathered health plans are subject to IRS limits on cost-sharing or out-of-pocket maximums with respect to coverage for essential health benefits. The 2018 plan limits increase to \$7,350/person and \$14,700/family. Note: ACA limits are not identical to the out of-pocket maximums for HSA-compatible high deductible health plans.
- Evidence of Coverage (EOC)** EOCs (including the applicable **Benefit Summaries**) for all offered medical plans must be provided to eligible employees at open enrollment and upon request in accordance with applicable distribution rules.
 - Health Savings Accounts (HSAs) that are compatible with High-deductible Health Plans (HDHPs)** are subject to IRS limits. The 2018 HSA annual contribution limit for individual (self-only) coverage under an HDHP will be \$3,450. The annual limit on deductible contributions to an HSA for family coverage under an HDHP will be \$6,900. For HSA-compatible HDHPs, the minimum required deductibles are \$1,350 for self-only and \$2,700 for family. The 2018 maximum out-of-pocket expense limit may not exceed \$6,650 for self-only coverage and \$13,300 for family coverage.

NOTICES

- ❑ **Grandfathered Plan Notice**
Applies to grandfathered plans. Provide to eligible employees at enrollment per applicable distribution rules. Must also include in EOC.
- ❑ **Patient Protection Notice (aka Physician Designation Notice)**
Applies to non-grandfathered plans. Provide to eligible employees at enrollment per applicable distribution rules.
- ❑ **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 per applicable distribution rules. May be provided at enrollment.
- ❑ **Newborns and Mothers Health Protection Notice**
Provide at time of enrollment in accordance with applicable distribution rules. Must also include in EOC.
- ❑ **Women's Health and Cancer Rights Act (WHCRA) Notice**
Provide annually and at time of enrollment per applicable distribution rules. Must also include in EOC.
- ❑ **Notice of HIPAA Special Enrollment Rights**
Provide at time of enrollment per applicable distribution rules. Must also include in EOC.
- ❑ **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 under the plan, it must send a Michelle's Law Notice along with any notice regarding the certification requirement. The Michelle's Law 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. Generally, the notice must be distributed 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 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 confidentialThe EEOC provided a sample notice to help employers comply with this requirement. The rule is effective on the first day of the plan year starting on or after January 1, 2017.
- ❑ **Wellness Program Notice of Alternative Standard**
If you sponsor a wellness program that offers incentives to employees who participate in certain activities or meet certain health standards, you must offer alternative standards to employees for whom it is unreasonably difficult or inadvisable to meet the standard. Notice regarding the alternative standards should be provided in materials describing the wellness program (which may include enrollment materials).

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