



Deadline for Notices on Health Insurance Marketplaces Is Approaching

As a requirement under the Affordable Care Act (“ACA”) employers must provide notices to their employees about the state health care exchanges, also called Health Insurance Marketplaces (“Marketplaces”). As outlined in our client advisory on July 11, the U.S. Department of Labor (DOL) announced their release of a model notice and guidance for employers on May 8 and provided a new deadline of October 1, 2013 for employers to provide the notice to existing employees. The exchange notification, which must be provided to current and all newly hired employees starting no later than October 1, 2013, is one of many health care reform requirements that may have fallen below the radar of many employers. The DOL’s primary intent behind the change is to inform potential COBRA participants of alternatives to COBRA coverage that may be available in the Health Exchange Marketplace.

Who Needs to Notify their Employees?

All employers who employ one or more employees and are subject to the Fair Labor Standards Act (“FLSA”) must provide a new notice to employees no later than October 1, 2013 regarding the availability of health coverage under the Health Insurance Exchange, also referred to as the Health Insurance Marketplace. Employees hired after October 1, 2013 must be given the notice within 14 days after their start date.

Which Employees do I Need to Notify?

Every employee regardless of part-time or full-time status and regardless of whether they have coverage or not; all employees must be notified.

What Does the notice Need to include?

The notice to employees must provide notice of the existence of the Marketplace, such as the Health Care Connector in Massachusetts, a description of the services provided by the Marketplace, and contact information for the Marketplace. Employees are also to be notified about the possibility of a premium tax credit for purchase of insurance through the Marketplace. Finally, the notice must inform employees that they may lose any employer contribution to the employer’s group health plan if they purchase insurance through the Marketplace and that such employer contribution may be excludable from income for federal income tax purposes.

The DOL has produced model notices for employers who offer health care coverage and for those who do not offer health care coverage. Employers are not required to use the model notice, as long as the required information is provided. Employers must adapt portions of the notice to meet their particular facts and circumstances, as well as provide information about the proper Marketplace.

New Forms and Employer Guidance

The Department of Labor (“DOL”) has issued two model notices:

[Model notice for Massachusetts only based employers](#)

[Optional appendix notice for Massachusetts only based employers](#)



Employers who are conducting business outside of Massachusetts or who have employees located outside of Massachusetts will use the following model notices:

[Model notice for employers who offer employer-provided health insurance](#)

[Model notice for employers who do not offer employer-provided health insurance](#)

Key Points and Next Steps for Employers

- Notices must be provided to new employees hired on or after October 1, 2013, at the time of hiring. DOL has indicated that, for 2014, it will consider notice to new employees to be timely if provided within 14 days of the employee's start date.
- Employers must provide the notice to current employees no later than October 1, 2013.
- Determine how the notice will be distributed to all current employees and all new hires moving forward. The notice must be provided in writing and worded in a manner that can "be understood by the average employee". It may be provided by first class mail or electronically if the DOL's electronic disclosure safe harbor requirements are met.
- HR Knowledge will include the new notices in all new hire kits for all employees beginning October 1, 2013. If your company does not subscribe to our new hire kit service please contact us for further information.

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