

Employee Benefits Series



2016 Benefits Notices

FOR OPEN ENROLLMENT

An easy-to-understand guide featuring key federal notices



2016 Benefits Notices for Open Enrollment

In addition to details regarding health benefits offered for the upcoming plan year, employers should ensure that open enrollment materials provided to employees for review and selection of benefits include certain required notices. The following list provides an overview of the key required health benefits notices that can be included in an employer's open enrollment materials for the 2016 plan year in order to satisfy its distribution obligations under federal law. While some of the notices must be provided annually (and/or at certain other times outside of the open enrollment period), many employers choose to include these notices in their open enrollment materials for administrative convenience.

The open enrollment period is also a good time for employers to review their plan documents to confirm that required plan design changes for 2016 (e.g., new contribution limits for health FSAs) are in effect. In general, plan changes should be communicated **either** through an updated [Summary Plan Description](#) (SPD) **or** a [Summary of Material Modifications](#) (SMM), within certain timeframes.

Please note that your company may be subject to additional obligations under your state's laws. Employers are encouraged to contact the [U.S. Department of Labor](#) or a knowledgeable employment law attorney for further guidance.

Notices for All Group Health Plans	
Notice	When Due
<input type="checkbox"/> Summary of Benefits and Coverage (SBC) & Uniform Glossary	Must be provided at specified times during the enrollment process and upon request, generally as follows: <ul style="list-style-type: none"> As part of the application materials for enrollment (if such materials are provided); By the first day of coverage, if there is any change in the SBC information that was provided upon application; Within 90 days of enrollment for individuals who are permitted to special enroll in the plan, regardless of the regular enrollment dates, due to certain work or life events; and Upon renewal of plan coverage (either at the same time as distribution of open enrollment materials or, if there is no requirement to renew and change coverage options, no later than 30 days prior to the first day of the new plan year).
<input type="checkbox"/> Notice of Special Enrollment Rights	At or before the time an employee is initially offered the opportunity to enroll in the plan
<input type="checkbox"/> Health Insurance Exchange Notice	Within 14 days of a new employee's start date
Notices for Particular Plan Designs	
Notice	When Due
<input type="checkbox"/> Disclosure of Grandfather Status	In any plan materials for a grandfathered group health plan describing the benefits provided

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Notices for Particular Plan Designs (Cont'd)	
Notice	When Due
<input type="checkbox"/> Notice of Patient Protections	Whenever a participant in a non-grandfathered group health plan that requires or provides for the designation of a participating primary care provider is furnished a Summary Plan Description (SPD) or other similar description of benefits under the plan
<input type="checkbox"/> Wellness Program Disclosure	In all plan materials that describe the terms of a health-contingent wellness program (requiring individuals to meet a standard related to a health factor in order to obtain a reward) and in any disclosure that an individual did not satisfy an initial outcome-based standard; if the plan materials merely mention that a program is available, without describing its terms , disclosure is not required
<input type="checkbox"/> Notice of Privacy Practices	Health plans meeting the definition of a " covered entity " must provide the notice to new enrollees at the time of enrollment (and at certain other times to covered individuals). Note: Fully insured group health plans that do not create or receive protected health information (PHI) —other than summary health and enrollment information—are not required to develop this notice. Fully insured group health plans that are required to provide the notice must provide it upon request .
<input type="checkbox"/> Women's Health & Cancer Rights Act (WHCRA) Enrollment Notice	Upon enrollment in a plan that provides coverage for medical and surgical benefits related to a mastectomy (and annually thereafter)
<input type="checkbox"/> Employer Children's Health Insurance Program (CHIP) Notice	Employers that maintain group health coverage in states that provide for premium assistance through Medicaid or CHIP must provide the notice annually before the start of each plan year. The notice may be provided concurrently with enrollment packets, open enrollment materials, or the SPD, provided that: <ol style="list-style-type: none"> 1. The materials are provided before the start of each plan year; 2. The materials are provided to all employees entitled to receive the CHIP notice; and 3. The notice appears separately and in a manner that ensures employees can reasonably be expected to appreciate its significance.
<input type="checkbox"/> Michelle's Law Notice	With any notice regarding a requirement for certification of student status under a plan that bases eligibility for coverage on student status (and that provides dependent coverage beyond age 26)
<input type="checkbox"/> Newborns' and Mothers' Health Protection Act Notice	Must be included in the SPD for a plan providing maternity or newborn infant coverage

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Notices for Particular Plan Designs (Cont'd)	
Notice	When Due
<input type="checkbox"/> Medicare Part D Creditable Coverage Disclosure Notice or Non-Creditable Coverage Disclosure Notice	<p>Employers sponsoring group health plans that include prescription drug coverage must provide the notice to Medicare-eligible individuals: prior to the effective date of enrolling in the prescription drug plan (and upon any change that affects whether the coverage is creditable); prior to the initial enrollment period for the Medicare prescription drug benefit; annually (prior to October 15th); and upon request.</p> <p>An online disclosure to the Centers for Medicare & Medicaid Services (CMS) is also required annually, no later than 60 days from the beginning of a plan year, and at certain other times.</p>
Other Important Benefits Notices	
Notice	When Due
<input type="checkbox"/> General Notice of COBRA Rights	<p>Employers with 20 or more employees⁺ that sponsor group health plans must include information regarding the right to continue coverage in the plan's Summary Plan Description (SPD) and Summary of Benefits and Coverage (SBC), in addition to providing the notice within 90 days after the date coverage commences</p>
<input type="checkbox"/> General FMLA Notice	<p>In addition to posting the notice prominently where it can be readily seen by employees and applicants, covered employers (generally those with 50 or more employees*) with FMLA-eligible employees also must include the notice in employee handbooks or other written guidance concerning employee benefits or leave rights—such as open enrollment materials—if such written materials exist; alternatively, copies can be distributed to each new employee upon hiring</p>

⁺ Under [COBRA](#), this includes **both** full- and part-time employees. Each part-time employee counts as a fraction of a full-time employee, with the fraction equal to the number of hours the part-time employee worked divided by the hours an employee must work to be considered full time. Companies that are part of a controlled group or which have common ownership interests should contact the U.S. Department of Labor or a knowledgeable attorney for issues related to headcount.

* Private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year are [subject to FMLA](#). An employee must work at a location where the company employs 50 or more employees **within 75 miles** (and meet certain other requirements with respect to time worked) to be eligible for FMLA leave. Any employee whose name appears on the employer's payroll will be considered employed each working day of the calendar week, and must be counted whether or not any compensation is received for the week.

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