

Health Plan Reporting & Disclosures



2019

The following information is designed as a client reference to assist with compliance in meeting reporting and disclosure requirements.

Requirement	Applies To:	What Is This?	Timing	How to Deliver (See Exhibit A)
Women's Health and Cancer Rights Act Notice	Group Health Plans	Description of benefits under the WHCRA	Annually plan participants & beneficiaries; new hires upon enrollment; Recommended for SPD	Electronic, hardcopy, 1 st class mail
Newborns' and Mothers' Health Protection Act Notice	Group Health Plans	Description of requirements for minimum length of stay for childbirth	Annually; new hires upon enrollment; SPDs	Electronic, hardcopy, 1 st class mail
CHIP Notice	Employers with employees residing in states that offer a premium subsidy	Informs eligible employees of where to find information on the Medicaid and CHIP premium programs in their state	Annually before the start of each plan year	Electronic, hardcopy, 1 st class mail (must be separate document but can be mailed with other materials)
Exchange Notices	All employers (not the Plan)	Written notice to each employee regarding the Exchanges	New hires within 14 days of hire	Electronic, hardcopy, 1 st class mail
SBCs – Summary of Benefits and Coverage	Group Health Plans grandfathered & non-GF	Uniform format to describe features of benefit options	At open enrollment, and to new hires within 7 days	Electronic, hardcopy, 1 st class mail
60-Day Advance Notice of Mid-Year Plan Changes	Group Health Plans grandfathered & non-GF	Notices required in advance of changes that impact the SBC	60-days in advance of change date	Electronic, hardcopy, 1 st class mail
Form W-2	Group Health Plans - employers filing more than 250 W-2s in the prior year	Reports the aggregate value of health care coverage on the W-2 form	Annually by January 31	Any permitted method for W-2 distribution
Medicare Part D Disclosure to CMS	Group Health Plans that provide Rx benefits	Online disclosure to CMS re: creditable or non-creditable status of drug benefits	Within 60 days after the first day of each plan year to which the disclosure relates; within 30 days of a change in status	Online
Medicare Part D Creditable or Non-Creditable Notices	Group Health Plans that provide Rx benefits	Notice to each Medicare-eligible individual to disclose creditability status of Rx benefits	Annually prior to Oct 15	Can be delivered with other communication materials; electronic, hardcopy, 1 st class mail

Requirement	Applies To:	What Is It?	Timing	How to Deliver (See Exhibit "A")
Grandfathered Status	Plans retaining GF status	Notice of GF status included in SPD or any plan materials used to describe health plan benefits	Annually at open enrollment, to new hires; included in SPDs	Electronic, hardcopy, 1 st class mail
PCORI Fee (Patient Centered Outcomes Research Institute Fee)	Insurers and employers with self-funded plans	Funding to conduct clinical effectiveness research focusing on patient outcomes	Report and pay on IRS Form 720 by July 31 each year following the last day of the plan year; applies to plan years after 10/1/12 and before 10/1/19	Any permissible method for filing IRS Form 720
Minimum Essential Coverage Reporting (IRS Codes 6055 & 6056)	Insurers and employers with self-funded plans that provide minimum essential coverage	Required reporting to the IRS; statements to covered individuals	The report is required to be filed with the IRS no later than February 28 th of each year (or March 31 st of each year, if filing electronically)	Any permissible method for W-2 distribution; employers submitting more than 250 returns must file electronically with the IRS
Reporting High Cost Coverage subject to excise taxes to IRS and Covered Provider (Cadillac Tax)	Insurers and employers with self-funded plans	If aggregate value of employee health coverage exceeds \$10,200 for single and \$27,500 for family, amount in excess of threshold subject to 40% excise tax	Annually, beginning in 2020	T B D
2016 Forms 1094-C (Transmittal) and 1095-C (Employer-Provided Health Insurance Offer and Coverage)	Applicable Large Employers (ALEs) (generally those with 50 or more full-time employees, including full-time equivalents) in the previous year	Provides information about the healthcare coverage offered (if any) by an ALE to report compliance with the employer shared responsibility ("pay or play") provisions.	Form 1095-C must be furnished to covered individuals/full-time employees by March 2, 2017. (Going forward January 31) Forms 1094-C and 1095-C must be filed with the IRS by February 28, 2017 (or March 31, 2017 if filing electronically)	1095-C 1 st class mail on or before the due date. 1094-C If filing more than 250 information returns you must file electronically through the AIR system. http://www.irs.gov/form1094c
2016 Forms 1094-B (Transmittal) and 1095-B (Health Coverage)	Self-insuring employers that are not Applicable Large Employers (ALEs) (generally those with 50 or more full-time employees, including full-time equivalents) in the previous year, and other providers of minimum essential health coverage	Used to report information about individuals who are covered by minimum essential coverage and therefore are not liable for the individual shared responsibility payment	Form 1095-B must be furnished to covered individuals by March 2, 2017. (Future filings January 31) Forms 1094-B and 1095-B must be filed with the IRS by February 28, 2017 (or March 31, 2017, if filing electronically)	1095-B 1 st class mail on or before the due date. 1094-B If filing more than 250 information returns you must file electronically through the AIR system. http://www.irs.gov/form1094b

HIPAA Notices & Disclosures

Notice of HIPAA Privacy Practices	Insurers and employers with self-funded plans	Description of participant rights, the plan's legal duties with respect to protected health information (PHI)	Upon enrollment; every three years; within 60 days of a material revision to the plan; upon request	Electronic, hardcopy, 1 st class mail
Requirement	Applies To:	What Is It?	Timing	How to Deliver (See Exhibit "A")
Notice of Special Enrollment Rights	Group health plans, not required for excepted health benefits	Provides notice to eligible employees of mid-year enrollment rights upon loss of or other specific circumstances	Must be distributed at or before eligibility to enroll; generally at open enrollment and to new hires	Electronic, hardcopy, 1 st class mail
ADA Notice Regarding Wellness Program <i>Note: This requirement is effective as of the first day of the plan year that begins on or after January 1, 2017.</i>	Group health plans with 15 or more employees that offer a wellness program that collects employee health information	Informs employees offered participation in a wellness program what employee health information will be collected, how it will be used, who will receive it and what will be done to keep it confidential	Employees must receive the notice before providing any health information, and with enough time to decide whether to participate in the program	Electronic, hardcopy, 1 st class mail

COBRA Notices & Disclosures

Continuation of Coverage Rights	Group health plans with 20 or more employees in the prior calendar year	Notice to inform participants of continuation (self-paid) rights upon occurrence of certain qualifying events	With 90 days of participant coverage effective date	Electronic, hardcopy, 1 st class mail
COBRA Election Notice	Group health plans with 20 or more employees in the prior calendar year	Notice to qualified participants (beneficiaries) <i>after</i> a qualifying event- provides information about how to elect COBRA	Within 14 days after the plan is notified of a qualifying event or 44 days after the event or loss of coverage if the plan administration and employer are the same entity	Electronic, hardcopy, 1 st class mail
Notice of Early Termination of COBRA Coverage	Group health plans with 20 or more employees in the prior calendar year	Notice to qualified beneficiaries if COBRA will terminate due to reaching the maximum coverage period	Immediately upon decision to terminate COBRA <i>prior to</i> the maximum coverage period	Electronic, hardcopy, 1 st class mail

Notice of Unavailability of COBRA	Group health plans with 20 or more employees in the prior calendar year	Notifies certain individuals who may expect to receive COBRA coverage, or an extension of COBRA coverage that COBRA is unavailable; generally in response to a 2 nd qualifying event or SSI disability determination	Promptly upon the determination that COBRA coverage or extended coverage is not available. Generally within 14 days after receiving notice of a qualifying event.	Electronic, hardcopy, 1 st class mail
Requirement	Applies To:	What Is It?	Timing	How to Deliver (See Exhibit "A")
Document Distributed as Needed				
Summary Plan Description (SPD)	Group health plans; does not apply to plans exempt from ERISA	A summary of plan provisions, including language and disclosures as required by ERISA; provide to all participants and COBRA beneficiaries	Within 90-days of coverage effective date; every 5 years if plan is changed within 5-year period; every 10 years if no amendments; upon request	Electronic, hardcopy, 1 st class mail
Summary of Material Reductions in Coverage	Group health plans; does not apply to plans exempt from ERISA	Description of modifications that would be considered by the average plan participant to be an important reduction in covered services or benefits under the plan; distributed to participants and COBRA beneficiaries	Within 60 days of adoption of the change; <i>notice in advance of the change is recommended</i>	Electronic, hardcopy, 1 st class mail
Summary of Material Modifications (SMM)	Group health plans; does not apply to plans exempt from ERISA	If material changes are made, a new SPD or SMM distributed to participants and COBRA beneficiaries	Within 210 days of the end of the plan year when modification is adopted	Electronic, hardcopy, 1 st class mail
Notice and Content Requirements for Appeals Process – Notice of Adverse Benefit Determination	Non-GF group health plans; insurers	Notice of internal and external review and appeal process; external review required under certain adverse circumstances	With any internal claims review or external appeal; generally in the SPD	Electronic, hardcopy; 1 st class mail
Plan Document	Group health plans; does not apply to plans exempt from ERISA	Written document that establishes and maintains the plan; a "wrap" document consolidates plans for FORM 5500 purposes	Wrap document required prior to filing 5500 Form; others within 30 days of written request	Regular mail or hand delivery upon request by the participant

FMLA and USERRA Notices

Family and Medical Leave Act (FMLA) General Notice of EE Rights and Responsibilities	Employer with 50+ employees for each work day in 20 or more workweeks in the current or preceding calendar year; all public agencies	DOL Poster summarizing the major provisions of the FMLA	Ongoing	Posted hardcopy
FMLA Specific Notice of Eligibility Rights & Responsibilities	Employers with 50+ employees for each work day in 20 or more workweeks in the current or preceding calendar year; all public agencies	Explanation of eligibility, expectations and obligations for employees requesting FMLA, including consequences of failure to meet obligations	Within 5 business days of any leave request and upon being notified of a need for leave	Must be provided in writing by hand or electronically; if leave has begun, notice to be mailed to employees address on record
Requirement	Applies To:	What Is It?	Timing	How to Deliver (See Exhibit "A")
Military leave Notice of Uniformed Services Employment and Reemployment Rights Act (USERRA)	Group health plans	Posted notice on premises to outline ER and EE rights and responsibilities, including notice of continuation rights upon receiving notice of leave	Ongoing and upon receipt of notice for USERRA leave	Posted hardcopy, electronic or as handout or mailing – including by email

Summary of Notice Distribution Requirements					WEB References
Notice/Document	Annual Enrollment	New Hire	New Enrollee	Other	
Summary of Benefits (SBC)	✓		✓	✓ Upon Request	Provided by Insurance Carrier for you to distribute
GF Plan Notice (Grandfathered Plans)	✓		✓	✓	https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/grandfathered-healthplans
Exchange Notice		✓	✓	✓ Upon Request	www.dol.gov/ebsa Then click on: Affordable Care Act / Employers and Advisers/Notice to Employees of Coverage Options / Model Notice for Employers who offer a health plan to some or all employees MS Word format.
Patient Protection Notice (Non-GF Plans)	✓		✓	✓ Upon Request	https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/preexisting-condition-exclusions
Women's Health and Cancer Rights Act Notice	✓		✓	✓ Upon Request	https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/whcra
Newborns' and Mothers' Rights Health Protection Act Notice			✓	✓ Upon Request	https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/publications/protections-for-newborns
Medicare Part D Creditable or Non-Creditable Coverage Notice	By Oct 15		✓		www.cms.gov Then click on: Medicare Prescription Drug Coverage / Creditable Coverage / Model Notice Letters
Medicare Part D Disclosure to CMS				Annually, w/in 60 days of the start of Plan year	www.cms.gov Then click on: Medicare / Prescription Drug Coverage Creditable Coverage / Disclosure to CMS Form
Employer CHIP Notice	✓	✓	✓	✓ Upon Request	https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/public-comments/2010-2409
Large ER Minimum Essential Coverage Statement-6055 & 6056				Annually February 28th or March 31st Electronically	
W-2 Reporting of Health Plan Coverage				✓	www.irs.gov
HIPAA Notice of Special Enrollment Rights	✓		✓	✓ Upon Request	https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/hipaa
Notice of HIPAA Privacy Practices or Reminder of Availability of Notice	Reminder Notice every 3 years		✓	✓ Upon Request	https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/hipaa

Notice of Continuation of Coverage Rights under COBRA (initial notice)			Within 90 days of coverage date	✓ Upon Request	https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/publications/an-employers-guide-to-group-health-continuation-coverage-under-cobra.pdf
Notice/Document	Annual Enrollment	New Hire	New Enrollee	Other	WEB References
Health Coverage 1094-B and 1095-B or Employer-provided Health Insurance Offer and Coverage 1094-C and 1095-C				Furnished to covered individuals by March 2, 2017. (Future filings January 31)	http://www.irs.gov/form1094c or http://www.irs.gov/form1094b
ADA Notice Regarding Wellness Program				Furnished to employees before they provide any health information and with enough time to decide whether to participate in the program.	https://www.eeoc.gov/laws/regulations/qanda-ada-wellness-notice.cfm

EXHIBIT A

Delivery Rules

Electronic Delivery – Individuals covered by the safe harbor

- ✓ *E-delivery is permitted for participants who use the employer’s information system as an “integral part” of their jobs and who can effectively access electronic documents at any location where they are reasonably expected to perform their own job duties*
- ✓ *E-delivery is also permitted for participants and beneficiaries or other persons if they have given specific consent to receive document through electronic media (see below)*

Basic safe harbor requirements:

- ✓ *The plan administrator must take steps to assure that the system results in actual receipt of the information; i.e., return-receipt or notice of undelivered mail or periodic review or survey to confirm receipt*
- ✓ *The plan administrator must take appropriate steps to assure that the system protects the confidentiality of personal information*
- ✓ *If an electronic document is furnished, each recipient must receive notice – in writing or electronically – of the significance of the document when it is not otherwise obvious; for example, explaining that a document attached to an e-mail contains plan changes, etc. and the individual’s right to receive hardcopy upon request*
- ✓ *The electronic document must be prepared and furnished in accordance with any applicable style, format and content as required by HIPAA*
- ✓ *Hardcopy must always be furnished upon request*

NOTE: *The DOL recommends that if documents are posted on a company website, the home page should contain an obvious link to the plan information sections, as well as directions on how to obtain replacement for lost or forgotten password, etc.*

Special requirements for affirmative consent:

- ✓ *Specific consent is required for e-delivery of documents to participants who don’t use the employer’s electronic information system as an integral part of their job, or to other individuals entitled to documents that require distribution; i.e., COBRA qualified beneficiaries, or those on LOA*
- ✓ *Before giving consent, the individual must receive a written statement that explains: (1) the documents covered by the consent (2) notice that the consent can be withdrawn at any time without charge (3) instructions on how to withdraw consent and update the address for receipt of the electronic documents (4) notice of the right to request and obtain hardcopy version of the electronic document (5) confirmation of whether the hardcopy version will be provided free of charge, and (6) any hardware and/or software requirements to access and retain the documents*

- ✓ *Affirmative consent must be provided electronically – if documents will be furnished via the internet or other electronic means, the recipient must provide an address for receipt and must consent electronically – in a manner that documents that he/she can access information in the electronic form that will be used to furnish the documents*
- ✓ *After affirmative consent is given, if there is a change in the electronic delivery system that creates a material risk that the individual will not be able to access or retain the electronic document, the following steps apply:*
 - *The plan must provide the individual with a statement of the revised system requirements*
 - *The plan must give the individual the right to withdraw consent, without charge and without conditions that were not disclosed at the time of initial consent; and*
 - *The individual must provide new consent*

Hand (Hardcopy) Delivery

Hand delivery of documents at the worksite is permitted – however, it is not sufficient simply to place copies of the documents in a location frequented by participants. The regulations do not otherwise describe what defines in-hand delivery; however, intra-office mail or personal hand delivery is generally expected to meet delivery requirements. Hand delivery is not an acceptable method of delivery for participants not actively at work; i.e., retirees, COBRA beneficiaries, those on LOA.

Mail Delivery

Documents may be sent by first-, second- or third-class mail. If first-class is used, the plan may rely on the “presumption of receipt.” That is, first-class mail is deemed received and requires less proof regarding delivery than second- and third-class mail. If second- and third-class mail is used, return/forwarding postage must be guaranteed and address corrections required.

Newsletter Delivery

Documents may be furnished as a special insert in a publication if:

- ✓ the mailing list for the publication is complete and updated
- ✓ there is notice prominently displayed on the publication cover that the document is contained therein, and
- ✓ steps are taken to assure delivery to participants who may not be on the mailing list; i.e., retirees, COBRA beneficiaries, those on LOA) in a manner that will assure delivery

For additional information:

<https://www.irs.gov/affordable-care-act/employers/questions-and-answers-to-help-your-organization-understand-aca-reporting-requirements>