

Health Insurance Coverage Notices

As you know, the primary purpose of the Affordable Care Act (also called the Healthcare Act) was to expand access to affordable health coverage. Central to this is the creation of new Insurance Exchanges, which are being referred to as the Health Insurance Marketplace (or the *Marketplace*). The Marketplace is intended to provide a competitive private health insurance market where individuals and employees of small businesses can shop for affordable coverage. Every state will have a Marketplace—some will be run by the state, others by the Federal government or a combination of the two. They are currently being set up and are supposed to be up and running by 10/1/13.

Open enrollment for health insurance coverage through the Marketplace begins 10/1/13 for coverage beginning 1/1/14. Individuals who don't have insurance coverage after 2013 may be subject to a penalty.

Depending on their income, individuals who obtain coverage through the Marketplace may qualify for premium tax credits that immediately reduce the premiums they pay for coverage. They may also be eligible for cost-sharing reductions that reduce the amount they pay out of pocket for medical expenses. However, neither the credit nor cost-sharing reduction is available if the individual's employer offers a health plan with minimum essential coverage that is affordable and meets the minimum value standard. The plan meets the minimum value standard if the plan's share of the total allowed cost of benefits is no less than 60%. Coverage is affordable if the employee's share of the self-only premium for the employer's lowest cost plan doesn't exceed 9.5% of the employee's household income.

To make sure employees have the information they need to allow them access to the benefits offered through the Marketplace, starting 10/1/13, employers must provide its employees written notice of the health coverage it offers along with an explanation of the new Health Insurance Marketplace coverage options. Employees will take this information to the Marketplace when they apply for insurance.

Employers Subject to the Notice Requirement

Most employers will be subject to this requirement as it applies to employers covered by the Fair Labor Standards Act (FLSA). In general, the FLSA applies to employers that have (1) one or more employees who are engaged in commerce and (2) gross annual sales of \$500,000 or more.

Providing Notice to Employees

The notice must be provided to all employees, regardless of plan enrollment status (if applicable) or of part-time or full-time status. A separate notice does not need to be given to dependents or other individuals who are or may become eligible for coverage under the plan, but who are not employees.

Content of the Notice

The notice must include specific information. The DOL has provided two Model Notices (one for employers offering insurance coverage to employees, the other for employers not offering coverage) that may be used to meet these requirements. The model notices are on the DOL website at www.dol.gov. You can find them by searching for "health insurance coverage options."

Timing and Delivery of the Notice

The notice must be provided in writing by first-class mail or, if certain requirements are met, it can be delivered electronically. It must be provided by 10/1/13 to employees hired before that date. Employees hired after 9/30/13, must be given the notice at the time of hiring.

Please give us a call if you have any questions or need any assistance meeting this new notice requirement.