

REQUIRED GROUP HEALTH PLAN NOTICES OVERVIEW

Employers of all sizes that sponsor group health plans are responsible for providing certain notices to employees during different periods of an employee's employment cycle. Employers of all sizes that sponsor group health plans are responsible for providing certain notices to employees during different periods of an employee's employment cycle. Importantly, notices should be distributed during the specified time frame to ensure that the provision of the notice satisfies the regulatory requirement. Some notices require customization and/or are subject to special e-delivery requirements. This publication provides an overview of which notices apply during different time periods and important considerations related to distribution. For more information regarding the employee notice requirement, see the PPI publication [Required Group Health Plan Notices Chart](#).

Note that the group health plan notices referenced in this publication apply only to US plans. They do not apply to non-US plans, such as international plans primarily covering foreign nationals who are not receiving US source income.

Employers of all sizes that sponsor group health plans are responsible for providing certain notices to employees during different periods of an employee's employment cycle.

UPON HIRE/ELIGIBILITY FOR HEALTH PLAN (INCLUDE IN NEW HIRE PACKET)

- Children's Health Insurance Program (CHIP) Notice
- EEOC Notice Regarding Wellness Program (distribute on an as-needed basis prior to making a medical inquiry, with enough time for the participant to decide whether or not to participate)*
- FMLA General Notice (if employer is subject to FMLA, distribute to all new hires)*
- HIPAA Notice of Special Enrollment Rights*
- Medicare Part D Creditable/Non-Creditable Disclosure Notice*
- Notice of Availability of Reasonable Alternative Standard (for health-contingent wellness programs) (include in all plan materials describing terms of health-contingent wellness programs)*
- Notice of Exchange (distribute to all new hires, regardless of eligibility for the employer's health plan, within 14 days of hire)*
- Summary of Benefits and Coverage (SBC)*

NOTE: Effective for plan years beginning on or after 1/1/2022, sponsors of group health plans must meet two posting requirements under the Consolidated Appropriations Act, 2021 (CAA).

First, under the CAA's No Surprises Act (NSA), plans must post a notice "on a public website of the plan or issuer [insurer]" advising plan participants of their rights under the NSA, including restrictions on balance billing in certain circumstances. While employers are not required to distribute the NSA notice (Notice of Your Rights and Protections Against Surprise Medical Bills), they should ensure that plan participants are advised of its posting location.



Second, under the CAA's Transparency in Coverage (TiC) Act, plans must post and update certain plan information every month on their public website. The required posting format is machine readable files (MRFs). Plans without a public website may contract with a TPA to post the MRFs on the TPA's public website. The MRFs must be provided free of charge and without requiring the establishment of a user account or password to access.

For further information about the NSA notice and TiC posting obligations, as well as other compliance obligations related to the CAA, see the PPI publication [Transparency and No Surprises Act Obligations of Group Health Plans](#).

UPON ENROLLMENT IN HEALTH PLAN**

- COBRA Initial Notice (COBRA Continuation Coverage General Notice) (distribute to newly covered employee and covered spouse within 90 days of coverage begin date; however, generally not distributed to domestic partners as they do not have independent COBRA election rights)*
- EEOC Notice Regarding Wellness Program (distribute on an as-needed basis prior to making a medical inquiry, with enough time for the participant to decide whether or not to participate)*
- Grandfathered Health Plan Notice (include in SPD for grandfathered plans)*
- HIPAA Notice of Privacy Practices (distribute at the time of enrollment; applicable for self-insured employers or fully insured "hands-on" employers, i.e., employers that create or receive protected health information other than enrollment/disenrollment information or summary health information; HIPAA Notice of Availability of Notice of Privacy Practices must be distributed at least once every three years)*
- Internal Claims Appeals and External Review Procedures Notice (include in SPD for non-grandfathered plans)
- Newborns' and Mothers' Health Protection Act (NMHPA) Notice (include in SPD)
- Notice of Availability of Reasonable Alternative Standard (for health-contingent wellness programs) (include in all plan materials describing terms of health-contingent wellness programs)*
- Patient Protection Notice (include in SPD for non-grandfathered plans)*
- SBC*
- Summary of Material Modification (SMM) and/or Summary of Material Reduction in Covered Services or Benefits (SMR), if applicable*
- Summary Plan Description (SPD) (distribute within 90 days of participation)*
- Women's Health and Cancer Rights Act (WHCRA) Enrollment/Annual Notice (include in SPD)*

ONGOING

Annually at Open Enrollment (include in enrollment packet; distribute to all eligible employees regardless of participation in the employer's group health plan)

- CHIP Notice (distribute as of first day of plan year)
- EEOC Notice Regarding Wellness Program (distribute on an as-needed basis prior to making a medical inquiry, with enough time for the participant to decide whether or not to participate)*
- Notice of Availability of Reasonable Alternative Standard (for health-contingent wellness programs) (include in all plan materials describing terms of health-contingent wellness programs)*
- SBC (distribute SBC for upcoming plan year)*
- SPD (if amended since prior open enrollment, or minimally every five years)
- WHCRA Enrollment/Annual Notice

Annually at Other Times (not at open enrollment)

- Form 1095-B (distribute by January 31 for the prior calendar year; applicable for self-insured employers with <50 FTEs)*
- Form 1095-C (distribute by January 31 for the prior calendar year; applicable for all large employers with 50 or more FTEs)*
- Form W-2 cost of employer-sponsored health coverage (distribute by January 31 for the prior calendar year)*
- Health Savings Account (HSA) Notice Regarding Employer Contributions (distribute notice only to HSA-eligible employees no later than 90 days before first employer HSA contribution and no later than January 15 of the following calendar year; applicable only if HSA contributions are made outside of Section 125 plan)

- Medicare Part D Creditable/Non-Creditable Disclosure Notice (distribute to covered participants to eligible individuals, including COBRA and retiree participants, by October 14 — prior to the October 15 start of Medicare open enrollment)*
- Summary Annual Report (distribute to covered participants within nine months of the plan year end date; applicable for plans that filed a Form 5500 for the prior plan year)*

Upon Midyear Employer Changes to Benefit Plans/Designs

- Summary of Material Modification (SMM) and/or Summary of Material Reduction in Covered Services or Benefits (SMR) (if plan change, whether enhancement or reduction, is not yet incorporated into updated SBC, distribute to participants as soon as administratively practicable prior to change effective date)*
- Updated SBC (if plan change, whether enhancement or reduction, relates to information in the most recently provided SBC, distribute to participants at least 60 days in advance of the change effective date)*

UPON COVERAGE TERMINATION

- COBRA Election Notice (COBRA Continuation Coverage Election Notice) (applicable if COBRA qualifying event occurs; if triggering event causes loss of eligibility for coverage, distribute to covered employee and qualified beneficiaries generally within 44 days of termination of employment, employee death, reduction of hours; distribute within 14 days of notification of divorce or child aging out; however, generally not distributed to domestic partners as they do not have independent COBRA election rights)*
- FMLA Notice of Nonpayment of Premium (distribute at least 15 days prior to termination of coverage)*
- Notice of Unavailability of COBRA Continuation Coverage (applicable if COBRA is unavailable, e.g., termination for gross misconduct, plan termination, etc.; distribution rules mimic COBRA Election Notice rules)
- Rescission of Coverage Notice (distribute to participants and qualified beneficiaries at least 30 days prior to notifying the carrier/TPA of retroactive termination)*
- Uniformed Services Employment and Reemployment Act (USERRA) Continuation Coverage Notice (applicable if COBRA qualifying event occurs for employees on uniformed services leave; coverage can continue under USERRA for up to 24 months (runs concurrently with federal COBRA); distribution rules mimic COBRA Election Notice rules)

NOTE: Group Term Life Insurance (GTLI) conversion and/or portability notices are not technically considered required group health plan notices, and distribution requirements and responsibilities for these notices (if any) vary according to carrier-specific contracts. However, as plan fiduciaries, employers that sponsor GTLI plans should ensure that proper procedures are in place to provide applicable conversion and/or portability notices when participants lose some or all of their employer-provided GTLI benefits. For further information about compliance obligations related to GTLI benefits, see the PPI publication [Group Term Life Insurance: A Guide for Employers](#).

DISTRIBUTION OF NOTICES

Employers may distribute required group health plan notices by hand, by mail or by electronic delivery (e.g., email) in a manner that complies with the DOL's electronic disclosure safe harbor. In general, employers must "use measures reasonably calculated to ensure actual receipt of the material by plan participants, beneficiaries and other specified individuals." The DOL's safe harbor rules allow for electronic distribution to employees who have computer access as an integral part of their job (e.g., work email address, Employees may distribute required group health plan notices by hand, by mail or by electronic delivery (e.g., email) in a manner that complies with the DOL's electronic disclosure safe harbor. In general, employers must "use measures reasonably calculated to ensure actual receipt of the material by plan participants, beneficiaries and other specified individuals." The DOL's safe harbor rules allow for electronic distribution to employees who have computer access as an integral part of their job (e.g., work email address, regular access to laptop/phone or other device, etc.). Employees without computer access as an integral part of their job must consent to electronic distribution of notices (usually using a personal email address). While electronic delivery can include posting to an employer's intranet or benefits portal, or sending via email (among other electronic means), these measures alone do not satisfy the DOL's distribution requirements. Employers must also notify employees that the notice has been posted and must describe the significance of the notice and the employee's right to request a paper copy.

*Notice must be customized prior to distribution.

**Includes initial enrollment as well as enrollment due to a HIPAA special enrollment right or permitted qualifying life event.

Importantly, while most notices can be distributed electronically, notices that must go to former employees or non-employees (such as spouses, domestic partners or dependents) should not be distributed electronically. Those include COBRA and FMLA notices. In addition, electronic distribution of Forms 1095-B/C requires explicit consent from the employee.

Finally, employers should routinely document all methods of delivery used for each required notice and should retain these records in accordance with the employer's record retention policy. In general, records related to ERISA plans should be retained for eight years. For more detailed information about electronic distribution rules, including a **Sample Employee Communication** and a **Sample Employee Consent to Receive Plan Disclosures**, see the PPI publication [Electronic Distribution Rules: A Guide for Employers](#).

SUMMARY

This publication highlights major federal requirements regarding employer-sponsored health plans and is not inclusive of all requirements.