

Publications

Labor and Employment Alert: Don't Forget to Disclose: Benefits Administrators Need to Provide End of Year Notices

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With open enrollment approaching for many employers, we thought it might be helpful to provide a list of the various notices and disclosures generally required to be provided to participants around this time of year.

Health Plans – Open Enrollment Notices

- *Medicare Part D Notice of Creditable Coverage* – Describes whether the prescription drug benefit offered under an employer's plan is at least as generous as the Medicare Part D drug benefit (must be provided by October 15th).
- *Summary of Benefits and Coverages (SBC)* – A summary of medical benefits for each medical plan design option.
- *Notice of HIPAA Special Enrollment Rights (included in the plan's SPD as well)* – Describes events that trigger mid-year enrollment rights in medical benefits. Must be provided prior to enrollment for employees who become eligible to participate in a group health plan.
- *Women's Health and Cancer Rights (WHCRA) Notice* – Describes the right to reconstructive surgery after a mastectomy.
- *Notice of Availability of HIPAA Privacy Practices* – Describes the group health plan's HIPAA Privacy Practices. Must be provided every 3 years, but is often included in open enrollment materials each year to satisfy requirement.
- *Notice of Coverage Options (or Exchange Notice)* – Describes the Affordable Care Act insurance marketplace.

The following will need to be provided at open enrollment, if applicable:

- *CHIPRA Notice* — Notifies individuals of availability of premium assistance for dependent children's health coverage under a state's CHIP or Medicaid program and provides contact information for each state.

- *Grandfathered Plan Disclosure* – Required if the group health plan maintains its grandfathered status under the Affordable Care Act. Must be included in any materials describing the health benefits or coverage.
- *Notice Regarding Designation of a Primary Care Provider* – Notifies participants if a group health plan requires participants to designate a primary care provider.
- *Wellness Program Disclosure(s)* – Notifies participants in health-contingent wellness programs of the availability of reasonable alternative standards for obtaining a reward. Notice also needed if wellness program requires medical exam or makes disability-related inquiries.

Retirement Plan Annual Notices and Disclosures

- *Participant Directed Investment Disclosure* – Notice required under ERISA §404(c) providing investment and other information necessary for participants to direct the investment of their retirement plan account(s). Must be furnished annually, if applicable.
- *Qualified Default Investment Alternative (QDIA) Notice* – Notice regarding the default investment options under the retirement plan. Must be provided 30-90 days before the start of the plan year, if applicable.
- *Automatic Contributions Notice* – Notice regarding participants' rights and obligations under the automatic contribution arrangement and how automatic contributions will be invested. Must be provided 30-90 days before the start of the plan year.
- *Participant-Level Fee Disclosure* – Fee disclosure required under ERISA §404(a)(5) describing all retirement plan fees. Must be furnished annually, at least once in any 14 month period.
- *Notice of effective opportunity to make or change cash or deferred election* – notice must be provided 60 days before plan year for SIMPLE plans; must provide participants with an effective opportunity to make or change 401(k) deferral elections.
- *401(k) safe harbor notice, if applicable* – Annual notice describing participants' rights and obligations under a safe harbor plan. Must be provided 30-90 days before the start of the plan year.
- *SAR (for defined contribution plans)* – Summary of information in plan's annual report. Must be furnished by September 30th or, if extension filed for Form 5500, by December 15th, for calendar year plans.
- *Annual Funding Notice (for defined benefit plans)* – Summary of the plan's funding status. Must be provided no later than 120 days after the end of the plan year.

If you have any questions about the content of the notices, the method of distribution or whether you are required to provide any of the listed notices, please contact one of the members of our employee benefits practice group.