



## Health Reform Notice

### Temporary Guidance on the Employee Notice of Exchange

On May 8, 2013, the Department of Labor (DOL) provided temporary guidance and model notices that employers can use to inform their employees about the Exchanges, which will be available January 1, 2014. Please note that the Department of Health and Human Services (HHS) now calls the Exchange the “Health Insurance Marketplace,” and DOL refers to the notice as the “Employee Notice of Coverage Options.”

The original deadline for providing this notice to employees was March 1, 2013. The effective date has been changed to October 1, 2013 to coincide with the Exchange or Marketplace open enrollment period, which also begins on that date. Employers who want to start providing notices sooner can follow this temporary guidance and use these model notices. However, employers are not required to provide notices under this temporary guidance and can wait until formal guidance is provided later this year.

#### Impacted Employers

The notice requirement applies to all employers that are subject to the Fair Labor Standards Act (FLSA). Most employers fall into this category, but there are exceptions. The following link may assist employers in making this determination:

<http://www.dol.gov/elaws/esa/flsa/scope/screen24.asp>

#### Recipient and Distribution Requirements

This one-time notice must be provided to all current employees as of October 1, 2013 and to new employees as they are hired. For 2014, if the notice is provided within 14 days of an employee's start date, the notice will be considered as having been provided at the time of hiring.

Employers must provide a notice to all full-time and part-time employees, regardless of whether the employee is enrolled in an employer-sponsored medical plan. Employers must provide this notice even if they do not offer any health coverage to employees.

The notice does not have to be provided to employees' dependents.

Notices must be in writing and can be delivered electronically by the employer if the ERISA standards for electronic delivery are met.

#### What Must be Included in the Notice

There are two versions of the model notice:

- Notice for employers that DO offer medical coverage to some or all of their employees
- Notice for employers that DO NOT offer medical coverage to any employees



### What Must be Included in the Notice (cont.)

- Employers can use the model notices or create their own notice as long as the notice includes the following required information:
- Verbiage that the Exchange or Marketplace exists including a description of the services it provides and direction for employees to visit HealthCare.gov for more information.
- Employees who purchase coverage through the Exchange or Marketplace may be eligible for a premium subsidy if their employer does not provide coverage that is “affordable” and provides “minimum value.” Coverage is affordable if the employee-only option for the lowest-cost plan offered costs less than 9.5% of an employee’s W-2 wages. Coverage provides minimum value if the plan pays at least 60% of allowed charges for covered services.
- Employees who purchase coverage through the Exchange or Marketplace will pay for that coverage with after-tax dollars.
- If applicable, information about the medical coverage the employer offers to its employees.

### Changes to COBRA Notice

Employees and dependents who become eligible for COBRA will also have the option to purchase coverage through the Exchange/Marketplace and potentially receive a premium subsidy. The model COBRA notice that employers and COBRA administrators use has been revised to include information about the Marketplace.

### Next Steps

Sisk & Co. will continue to work with our legal team and HR partners to ensure our clients meet all notice requirements under Health Care Reform.

Further guidance will follow in months come.

[Read the Department of Labor Technical Release](#)

[Review the notice of employers that DO offer coverage](#)

[Review the notice for employers that DO NOT offer coverage](#)

[Review the revised COBRA notice](#)

[Review the ERISA standards for electronic delivery](#)

