

Employee Benefits Series



Benefits Notices

FOR EMPLOYERS WITH 20-49 EMPLOYEES

An easy-to-understand guide featuring key federal notices and filings



Benefits Notices: Employers With 20-49 Employees

For companies with **20-49 employees**, this chart provides an overview of key required benefits notices and filings for employers and plan administrators under federal law. Please note that your company may be exempt from certain requirements and/or subject to additional obligations under your state's laws. Employers are encouraged to contact the [U.S. Department of Labor](http://www.dhs.gov/e-verify/) or a knowledgeable employment law attorney for further guidance.

Employee Retirement Income Security Act (ERISA) Notices		
Notice	Provide To	When Due
Summary Plan Description (SPD)	Group health plan participants	<p>Within 90 days after the employee becomes a participant in the plan</p> <p>An updated SPD must be furnished every 5 years if changes are made to SPD information or the plan is amended (otherwise, it must be furnished every 10 years)</p>
Summary of Material Modifications (SMM) and Summary of Material Reduction in Covered Services or Benefits	Group health plan participants	<p>No later than 210 days after the end of the plan year in which the change is adopted, for material changes to the plan that do not result in a material reduction in covered services or benefits</p> <p>Within 60 days of adoption of a material reduction in covered services or benefits (alternatively, notice may be provided with plan information that is furnished at regular intervals of not more than 90 days, if certain conditions are met)</p> <p><u>Note:</u> Timely distribution of a "Notice of Modification" (below) may satisfy these requirements.</p>
Plan Documents (e.g., SPD, any SMMs, and other documents under which the plan is established or operated)	Group health plan participants & beneficiaries	Copies must be furnished within 30 days of a written request, and the plan administrator must make copies available for examination at its principal office (the DOL can also request any documents relating to the plan)
Health Care Reform Notices		
Notice	Provide To	When Due
2015 Forms 1094-B (<i>Transmittal</i>) and 1095-B (<i>Health Coverage</i>)	Individuals covered by a self-insured health plan	<p>Form 1095-B must be furnished to covered individuals by March 31, 2016</p> <p>Forms 1094-B and 1095-B must be filed with the IRS by May 31, 2016 (or June 30, 2016, if filing electronically)</p>
Health Insurance Exchange Notice	All new employees	Within 14 days of an employee's start date

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Health Care Reform Notices (Cont'd)		
Notice	Provide To	When Due
Summary of Benefits and Coverage (SBC) & Uniform Glossary	Group health plan participants & beneficiaries	At specified times during the enrollment process and upon request
Notice of Modification	Group health plan participants & beneficiaries	No later than 60 days prior to the effective date of a material plan or coverage change that would affect the content of the SBC and that occurs other than in connection with a renewal or reissuance of coverage <i>Note:</i> A complete & timely notice may also satisfy the requirement to provide an SMM.
Disclosure of Grandfather Status	Group health plan participants & beneficiaries	In any plan materials for a grandfathered group health plan provided to a participant or beneficiary describing the benefits provided under the plan
Notice of Patient Protections	Group health plan participants	Whenever a participant in a non-grandfathered group health plan that requires or provides for the designation of a participating primary care provider is furnished an SPD or other similar description of benefits under the plan
Patient-Centered Outcomes Research Institute (PCORI) Fees	Filed with the Internal Revenue Service	IRS Form 720 must be filed annually by plan sponsors of certain self-insured health plans , no later than July 31st of the calendar year immediately following the last day of the plan year to which a fee applies
Health Insurance Portability and Accountability Act (HIPAA) Notices		
Notice	Provide To	When Due
Notice of Special Enrollment Rights	Employees eligible to enroll in the employer's group health plan	At or before the time an employee is initially offered the opportunity to enroll in the plan
Wellness Program Disclosure	Group health plan participants & beneficiaries eligible to participate in a health-contingent wellness program	In all plan materials that describe the terms of the health-contingent wellness program (if the plan materials merely mention that a program is available, without describing its terms, disclosure is not required) and in any disclosure that an individual did not satisfy an initial outcome-based standard

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HIPAA Notices (Cont'd)		
Notice	Provide To	When Due
<p>Notice of Privacy Practices</p> <p>Note: Fully insured group health plans that do not create or receive protected health information (PHI)—other than summary health and enrollment information—are not required to develop this notice.</p>	<p>Individuals enrolled in the plan</p>	<p>Fully insured group plans meeting the definition of a "covered entity" that create or receive PHI in addition to summary health & enrollment information must provide the notice upon request</p> <p>Other health plans that are covered entities must provide the notice to new enrollees at the time of enrollment and to covered individuals within 60 days of a material revision to the policy (with special rules for website notice postings); must notify covered individuals of the availability of the notice and how to obtain the notice at least once every 3 years; and must provide it upon request</p>
Special Health Care Notices		
Notice	Provide To	When Due
<p>Women's Health & Cancer Rights Act (WHCRA) Notices</p>	<p>Group health plan participants & beneficiaries</p>	<p>Upon enrollment in a plan that provides coverage for medical and surgical benefits related to a mastectomy, and annually thereafter</p>
<p>Mental Health Parity & Addiction Equity Act (MHPAEA) Disclosure</p>	<p>Any current or potential group health plan participant, beneficiary, or contract provider</p>	<p>Upon request for a plan offering medical/surgical benefits and mental health or substance use disorder benefits</p> <p>Note: Certain plans that are exempt from the requirements under the MHPAEA based on increased cost may be subject to alternative disclosure rules.</p>
<p>Employer Children's Health Insurance Program (CHIP) Notice</p>	<p>All employees</p>	<p>Annually before the start of each plan year (may be provided concurrently with the SPD or other materials notifying the employee of plan eligibility, or in connection with an open season or election process conducted under the plan, as long as certain requirements with respect to appearance are satisfied)</p>
<p>Michelle's Law Notice</p>	<p>Group health plan participants</p>	<p>With any notice regarding a requirement for certification of student status under a plan that bases eligibility for coverage on student status (and that provides dependent coverage beyond age 26)</p>
<p>Newborns' and Mothers' Health Protection Act Notice</p>	<p>Group health plan participants</p>	<p>Must be included in the SPD for a plan providing maternity or newborn infant coverage</p>

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Special Health Care Notices (Cont'd)		
Notice	Provide To	When Due
Medicare Part D Creditable Coverage Disclosure Notice or Non-Creditable Coverage Disclosure Notice	Medicare-eligible individuals (including certain dependents) who are offered prescription drug coverage under the employer's group health plan	Annually prior to October 15th, upon request, and at various other times as required under the law An online disclosure to the Centers for Medicare & Medicaid Services (CMS) is also required annually, no later than 60 days from the beginning of a plan year, and at certain other times
Genetic Information Nondiscrimination Act (GINA) Disclosures	Entities from whom requests for health-related information are made	Whenever an applicant or employee is sent for a medical examination An additional "warning" is required when requests for health-related information are made (e.g., to support an employee's request for reasonable accommodation or a request for sick leave), but only if the request for medical documentation is made in a way that is likely to result in receipt of genetic information
Consolidated Omnibus Budget Reconciliation Act (COBRA)* Notices		
Notice	Provide To	When Due
General Notice of COBRA Rights	Covered employees & their spouses	Within 90 days after the date group health plan coverage commences (information regarding the right to continue coverage also must be included in the plan's SPD and SBC) <i>Note:</i> This requirement may be satisfied by including the general notice in the SPD and giving it to the employee and spouse within the time limit.
Notice of COBRA Qualifying Event	Plan administrator	The employer must provide notice within 30 days of the occurrence of a qualifying event that is the covered employee's death, termination of employment (other than for gross misconduct), reduction in hours, or entitlement to Medicare <i>Note:</i> The employee or one of the qualified beneficiaries is responsible for notifying the plan if the qualifying event is divorce, legal separation, or loss of dependent status under the plan (the employee or qualified beneficiary has at least 60 days from the date of the event to give notice).

Under [COBRA](#), this includes **both full- and part-time employees. Each part-time employee counts as a fraction of a full-time employee, with the fraction equal to the number of hours the part-time employee worked divided by the hours an employee must work to be considered full time. Companies that are part of a controlled group or which have common ownership interests should contact the U.S. Department of Labor or a knowledgeable attorney for issues related to headcount.*

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COBRA* Notices (Cont'd)		
Notice	Provide To	When Due
COBRA Election Notice	Covered employees, spouses, & dependent children who are qualified beneficiaries	Generally within 14 days after receiving notice of a qualifying event <i>Note:</i> If the employer is also the plan administrator, the notice must be provided not later than 44 days after the date the qualifying event occurred or the date of loss of coverage due to the qualifying event (if the plan provides that COBRA coverage starts on the date of loss of coverage).
Notice of Unavailability of COBRA Coverage	Individuals who have submitted a Notice of Qualifying Event who are determined ineligible for COBRA	Generally within 14 days after receiving notice of a qualifying event, unless the employer is also the plan administrator (see above note)
Notice of Underpayment of COBRA Premium	Qualified beneficiary who makes timely payment in an amount not significantly less than the amount due for a period of COBRA coverage	A plan must provide notice and grant a reasonable period of time (no less than 30 days) for payment of a deficiency, where the incorrect amount is not significantly less than the amount due, before taking action to terminate coverage.
Notice of Early Termination of COBRA Coverage	Qualified beneficiaries whose COBRA coverage will terminate earlier than the maximum period of coverage	As soon as practicable following the plan administrator's determination that COBRA coverage will terminate

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Provided by:



Stratford Employer Services
271 US Highway 46, G206/G207
Fairfield, NJ 07004

Phone: 866-217-9053
www.getstratford.com

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