

Employee Benefits Series



Benefits Notices

FOR EMPLOYERS WITH 50+ EMPLOYEES

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



Benefits Notices: Employers With 50+ Employees

For companies with **50+ 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
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
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
<p>2015 Forms 1094-C (<i>Transmittal</i>) and 1095-C (<i>Employer-Provided Health Insurance Offer and Coverage</i>)</p>	<p>For applicable large employers (ALEs) with fully-insured plans: Each employee who was a full-time employee for any month of the calendar year (and who was not in a limited non-assessment period)</p> <p>For ALEs with self-insured plans: Any employee who enrolls in the health coverage, whether or not the employee is a full-time employee for any month of the calendar year</p>	<p>Form 1095-C must be furnished to covered individuals/full-time employees by March 31, 2016</p> <p>Forms 1094-C and 1095-C must be filed with the IRS by May 31, 2016 (or June 30, 2016, if filing electronically)</p>
<p>Summary of Benefits and Coverage (SBC) & Uniform Glossary</p>	<p>Group health plan participants & beneficiaries</p>	<p>At specified times during the enrollment process and upon request</p>
<p>Notice of Modification</p>	<p>Group health plan participants & beneficiaries</p>	<p>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</p> <p><i>Note:</i> A complete & timely notice may also satisfy the requirement to provide an SMM.</p>
<p>Notice of Patient Protections</p>	<p>Group health plan participants</p>	<p>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</p>
<p>Patient-Centered Outcomes Research Institute (PCORI) Fees</p>	<p>Filed with the Internal Revenue Service</p>	<p>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</p>

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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
Notice of Privacy Practices 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.	Individuals enrolled in the plan	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 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
Special Health Care Notices		
Notice	Provide To	When Due
Women's Health & Cancer Rights Act (WHCRA) Notices	Group health plan participants & beneficiaries	Upon enrollment in a plan that provides coverage for medical and surgical benefits related to a mastectomy, and annually thereafter
Mental Health Parity & Addiction Equity Act (MHPAEA) Disclosure	Any current or potential group health plan participant, beneficiary, or contract provider	Upon request for a plan offering medical/surgical benefits and mental health or substance use disorder benefits Note: Certain plans that are exempt from the requirements under the MHPAEA based on increased cost may be subject to alternative disclosure rules .
Newborns' and Mothers' Health Protection Act Notice	Group health plan participants	Must be included in the SPD for a plan providing maternity or newborn infant coverage

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Special Health Care Notices (Cont'd)		
Notice	Provide To	When Due
Employer Children's Health Insurance Program (CHIP) Notice	All employees	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)
Michelle's Law Notice	Group health plan participants	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)
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 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.

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 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).
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

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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Family and Medical Leave Act (FMLA)• Notices		
Notice	Provide To	When Due
General FMLA Notice	All employees	<p>Must be posted prominently where it can be readily seen by employees and applicants, even if no employees are eligible for FMLA leave</p> <p>The notice must also be provided to each eligible employee by including it in employee handbooks or other written guidance concerning employee benefits or leave rights (if such written materials exist), or by distributing a copy to each new employee upon hiring, but only if the employer has any FMLA-eligible employees</p>
Notice of FMLA Eligibility & Rights and Responsibilities	Employees requesting FMLA leave	<p>Generally within 5 business days of the employee notifying the employer of the need for FMLA leave (or when the employer acquires knowledge that an employee's leave may be for an FMLA-qualifying reason)</p> <p><u>Note:</u> Written notice of any change in the employee's eligibility status, or the specific information provided by the notice of rights and responsibilities, is also required.</p>
FMLA Designation Notice	Employees requesting FMLA leave	<p>Generally within 5 business days after the employer has enough information to determine whether the leave is being taken for an FMLA-qualifying reason (if leave is not designated as FMLA-qualifying, the notice may be in the form of a simple written statement)</p> <p><u>Note:</u> Written notice of any change to the information provided in the designation notice is also required.</p>

Private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year are [subject to FMLA](#). An employee must work at a location where the company employs 50 or more employees **within 75 miles (and meet certain other requirements with respect to time worked) to be eligible for FMLA leave. Any employee whose name appears on the employer's payroll will be considered employed each working day of the calendar week, and must be counted whether or not any compensation is received for the week.*

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Employers With 100+ Employees Also Need To Comply With:

Notice	Provide To	When Due
<p>Form 5500 Annual Return/Report & Schedules to Form 5500</p>	<p>Filed electronically with the DOL through the ERISA Filing Acceptance System (EFAST2), using either EFAST2-approved vendor software or the IFILE web-based filing system</p> <p><u>Note:</u> The plan administrator must keep a copy of the Form 5500 on file and must make a paper copy available upon request to participants, beneficiaries, & the DOL (see "Plan Documents" above)</p>	<p>Generally by the last day of the 7th calendar month after the end of the plan year (not to exceed 12 months in length)</p> <p>A plan may obtain a one-time extension of time to file (up to 2½ months) by filing Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, with the IRS on or before the date the Form 5500 would otherwise be due, without extension</p> <p><u>Note:</u> Depending on the plan design, certain exemptions may apply.</p>
<p>Summary Annual Report (SAR)</p>	<p>Each plan participant</p>	<p>Plans subject to Form 5500 annual reporting requirements must provide the SAR annually within 9 months after the end of the plan year</p> <p><u>Note:</u> When an extension of the due date for filing Form 5500 has been granted by the IRS, the SAR must be provided within 2 months after the extended due date.</p>

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Provided by:



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