

Notices and Disclosures for Distribution – Brinson Benefits

WHEN ELIGIBLE			
Notice or Disclosure Name:	What it Is:	Who Must Distribute:	How to Distribute:
Notice of Special Enrollment Rights	The Special Enrollment Rights disclosure must explain the participants' and beneficiaries' right to benefits and when that right may be lost. The disclosure should be made at or before the time an employee is initially offered the opportunity to enroll in a group health plan.	All Plans	Distribute Electronically: See DOL Safe Harbor
Medicare Part D Creditable Coverage Notice	Plans must notify Medicare Part D eligible participants whether the current employer sponsored prescription drug benefit provides creditable coverage. Notification must be given prior to the effective date of coverage under the employer's plan. Because an employer may not always be aware of which employee participants and their beneficiaries are (or will be) eligible for Medicare Part D, many employers take the cautious approach and provide the notice to all employees.	All Plans by October 15 th of each year and following changes in creditable coverage status	Distribute Electronically: See Footnote ¹
Summary of Benefits and Coverage (SBC)	<p>The SBC for a self-insured plan must be provided to all eligible employees no later than the first date an employee is eligible to enroll. The plan administrator (generally, the employer) is responsible for creating and furnishing the SBC to participants. Unless the plan has knowledge of a separate address for a beneficiary, the SBC may be provided to the participant on behalf of the beneficiary, including when the SBC is distributed electronically.</p> <p>Other Disclosure Requirements: The SBC must also be provided as part of any written application materials. In addition, the SBC must be provided upon request, prior to renewal and prior to a special enrollment. A Notice of Material Modification or a new SBC must be provided when there is a change during the plan year that would affect the content of the SBC.</p>	Self-Insured Plans	Distribute Electronically: See Footnote ²
Summary of Benefits and Coverage (SBC)	<p>The SBC for a fully insured plan must be provided to all eligible employees no later than the first date an employee is eligible to enroll. The insurer is responsible for creating the SBC and is jointly responsible with the plan administrator (generally, the employer) for furnishing the SBC to participants. Unless the plan or issuer has knowledge of a separate address for a beneficiary, the SBC may be provided to the participant on behalf of the beneficiary, including when the SBC is distributed electronically.</p> <p>Other Disclosure Requirements: The SBC must also be provided as part of any written application materials. In addition, the SBC must be provided upon request, prior to renewal and prior to a special enrollment. A Notice of Material Modification or a new SBC must be provided when there is a change during the plan year that would affect the content of the SBC.</p>	Fully Insured Plans	Distribute Electronically: See Footnote ²

Grandfathered Plan Notice	All group health plans claiming “ grandfathered status ” under the ACA must disclose this in all plan materials distributed to participants describing benefits under the plan, including enrollment materials. A Non-Grandfathered plan does not have to disclose its status.	Grandfathered Plans	Distribute Electronically: Follow Guidelines for SBC ²
Patient Protection Notice	Non-Grandfathered plans that require the designation of a primary care provider (PCP) must provide information relative to a participant’s rights under the ACA . This disclosure should be included in all plan materials distributed to participants describing benefits under the plan, including enrollment materials.	Non-Grandfathered Plans that require designation of PCP	Follow Guidelines for SBC ²
Wellness Incentive Disclosure	<p>The plan must disclose the availability of a waiver or alternative standard to receive a standard-based wellness incentive. If the enrollment materials include information on the standard-based wellness incentive, it should also include information about the availability of a waiver or alternative.</p> <p>Other Disclosure Requirements: A notice of the availability of a waiver or alternative standard must be included in all plan materials that describe the standard-based wellness incentive.</p>	Plans with Wellness Programs that offer a standard-based incentive	Distribute Electronically: See DOL Safe Harbor

Footnotes:

[1] Electronic distribution is allowed via the [DOL Safe Harbor](#), but the CMS prefers using paper documents because Part D eligible individuals are more likely to receive and understand them.

[2] The SBC safe harbor allows the SBC to be provided electronically to participants and beneficiaries in connection with their online enrollment or renewal of coverage. If online enrollment is not available, the SBC may be provided electronically according to the [DOL Safe Harbor](#) for participants covered under the plan. For participants and beneficiaries who are eligible but not enrolled, the SBC may be provided electronically if the format is readily accessible, which includes an Internet posting if the individuals are notified in paper form (such as a postcard) or via email that the documents are available on the Internet. Special rules may apply for non-federal governmental plans.

UPON INITIAL ENROLLMENT			
Women's Health and Cancer Rights Act Notice	<p>Group health plans that provide coverage for medical and surgical benefits with respect to mastectomies must disclose a woman's rights after a mastectomy. This requirement can be met by including the disclosure in an SPD that is distributed upon enrollment. <i>Plans sponsored by self-funded, nonfederal governmental employers may elect to opt-out of this provision, which would require that an "opt-out notice" be provided upon enrollment.</i></p> <p>Other Disclosure Requirements: In addition to the disclosure upon enrollment, participants must be given an annual notice.</p>	All Plans	Distribute Electronically: See DOL Safe Harbor
HIPAA Notice of Privacy Practices	<p>A covered entity must provide to individuals a notice of the plan's privacy practices upon enrollment in the plan. The covered entity may include the privacy notice with other written materials that are mailed to the individuals (except that the notice may not be combined in a single document with an authorization).</p> <p>Other Disclosure Requirements: A new privacy notice must be provided within 60 days after a material change to the notice and the plan must notify participants at least once every three years that a notice of privacy practices is available.</p>	Self-Insured Plans; Fully-insured plans are notified by the carrier	Distribute Electronically: See DOL Safe Harbor
Grandfathered Plan Notice	<p>All group health plans claiming "grandfathered status" under the ACA must disclose this status in any plan materials describing benefits under the plan (including the SPD) that are distributed to participants upon enrollment. A Non-Grandfathered plan does not have to disclose its status.</p> <p>Other Disclosure Requirements: A plan's grandfathered status should be included in all materials that describe benefits under the plan, regardless of when they are distributed.</p>	Grandfathered Plans	Distribute Electronically: Follow Guidelines for SBC ²
Patient Protection Notice	<p>Non-Grandfathered plans that require the designation of a primary care provider (PCP) must provide information relative to a participant's rights under the ACA. The notice is required to be provided whenever a summary plan description or other similar description of plan benefits is provided to a participant or beneficiary. This requirement can be met by including the disclosure in an SPD that is distributed upon enrollment.</p> <p>Other Disclosure Requirements: A participant's rights under the ACA relative to selection of a PCP should be included in all materials that describe benefits under the plan, regardless of when they are distributed.</p>	Non-Grandfathered Plans that require designation of a PCP	Distribute Electronically: Follow Guidelines for SBC ²

Wellness Program – Notice of Reasonable Alternatives	<p>The plan must disclose the availability of a wavier or alternative standard to receive a standard-based wellness incentive in all plan materials describing the standard-based incentive (including the SPD) that are distributed to participants upon enrollment.</p> <p>Other Disclosure Requirements: A notice of the availability of a waiver or alternative standard must be included in all plan materials that describe the standard-based wellness incentive, regardless of when they are distributed.</p>	Plans with wellness programs that offer a standard-based incentive	Distribute Electronically: See DOL Safe Harbor
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Footnotes:

[1] Electronic distribution is allowed via the [DOL Safe Harbor](#), but not recommended due to the consent and notice requirements for individuals who do not have access to an employer's system (such as covered spouses, beneficiaries or alternate recipients). Therefore, the COBRA Initial Notice is often mailed to the employee participant's home address.

[2] The SBC safe harbor allows the SBC to be provided electronically to participants and beneficiaries in connection with their online enrollment or renewal of coverage. If online enrollment is not available, the SBC may be provided electronically according to the DOL safe harbor for participants covered under the plan. For participants and beneficiaries who are eligible but not enrolled, the SBC may be provided electronically if the format is readily accessible, which includes an Internet posting if the individuals are notified in paper form (such as a postcard) or via email that the documents are available on the Internet. Special rules may apply for non-federal governmental plans.

ANNUALLY			
Premium Assistance under Medicaid and CHIP	<p>The Children's Health Insurance Program Reauthorization Act (CHIPRA) requires plans to disclose certain special enrollment opportunities to participants or beneficiaries (employees, dependents, COBRA qualified beneficiaries, etc.) residing in states that provide a premium assistance subsidy under Medicaid or CHIP. Because an employer may not always be aware of what states provide this assistance and where all employees and their beneficiaries reside, many employers take the cautious approach and provide the notice to all employees.</p> <p>Distribution Requirements: Distribute the notice annually to all employees who meet the criteria described above, not just those who are eligible or enrolled in the health plan.</p>	All Plans	Distribute Electronically: See DOL Safe Harbor
Women's Health and Cancer Rights Act	<p>Group health plans that provide coverage for medical and surgical benefits with respect to mastectomies must disclose a woman's rights after a mastectomy. <i>Plans sponsored by self-funded, nonfederal governmental employers may elect to opt-out of this provision, which would require that an "opt-out notice" be provided at enrollment.</i></p> <p>Distribution Requirements: Distribute the notice annually to plan participants at any time during the plan year.</p> <p>Other Disclosure Requirements: In addition to the annual notice, disclosure of a woman's rights relative to WHCRA must be provided upon enrollment.</p>	All Plans	Distribute Electronically: See DOL Safe Harbor
Medicare Part D Creditable Coverage Notice	Plans must notify Medicare Part D eligible participants of whether the current employer-sponsored prescription drug benefit provides creditable coverage. Because an employer may not always be aware of which employee participants and their beneficiaries are (or will be) eligible for Medicare Part D, many employers take the cautious approach and provide the notice to all employees.	All Plans by October 15 th of each year and following changes in creditable coverage status	Distribute Electronically: See Footnote ¹
Summary of Benefits and Coverage	In addition to when an individual first becomes eligible for the plan, an SBC must be provided at each renewal. If a plan or issuer requires participants and beneficiaries to actively elect to maintain coverage during an open enrollment, or provides them with the opportunity to change coverage options in an open enrollment, the plan or issuer must provide the SBC at the same time it distributes open enrollment materials. If there is no requirement to elect to renew, and no opportunity to change coverage options, renewal is considered to be automatic and the SBC must be provided no later than 30 days prior to the first day of the new plan or policy year.	Self-Insured Plans	Distribute Electronically: See Footnote ²

	<p>Other Disclosure Requirements: The SBC must also be provided as part of any written application materials. In addition, the SBC must be provided upon request and when an individual becomes eligible for the plan, including through special enrollment. A Notice of Material Modification or a new SBC must be provided when there is a change during the plan year that would affect the content of the SBC.</p>		
Summary of Benefits and Coverage	<p>The insurer is jointly responsible with the plan administrator (typically the employer) for furnishing the SBC to participants and beneficiaries. In addition to when an individual first becomes eligible for the plan, an SBC must be provided at each renewal. If a plan or issuer requires participants and beneficiaries to actively elect to maintain coverage during an open enrollment, or provides them with the opportunity to change coverage options in an open enrollment, the plan or issuer must provide the SBC at the same time it distributes open enrollment materials. If there is no requirement to elect to renew, and no opportunity to change coverage options, renewal is considered to be automatic and the SBC must be provided no later than 30 days prior to the first day of the new plan or policy year.</p> <p>Other Disclosure Requirements: The SBC must also be provided as part of any written application materials. In addition, the SBC must be provided upon request and when an individual becomes eligible for the plan, including through special enrollment. A Notice of Material Modification or a new SBC must be provided when there is a change during the plan year that would affect the content of the SBC.</p>	Fully Insured Plans	Distribute Electronically: See Footnote ²

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[1] Electronic distribution is allowed via the [DOL Safe Harbor](#), but the CMS prefers using paper documents because Part D eligible individuals are more likely to receive and understand them.

[2] The SBC safe harbor allows the SBC to be provided electronically to participants and beneficiaries in connection with their online enrollment or renewal of coverage. If online enrollment is not available, the SBC may be provided electronically according to the [DOL Safe Harbor](#) for participants covered under the plan. For participants and beneficiaries who are eligible but not enrolled, the SBC may be provided electronically if the format is readily accessible, which includes an Internet posting if the individuals are notified in paper form (such as a postcard) or via email that the documents are available on the Internet. Special rules may apply for non-federal governmental plans.

UPON CERTAIN EVENTS			
New Health Insurance Marketplace Coverage Options	Employers subject to the Fair Labor Standards Act (FLSA) must provide notice to employees of their coverage options, including options available in the Health Insurance Marketplace. Distribution Requirements: Distribute to all full-time and part-time employees, regardless of plan enrollment status, within 14 days of an employee's start date. Follow the DOL Safe Harbor for electronic distribution.	All Plans Upon Hire	Distribute Electronically: See DOL Safe Harbor
Summary of Material Modifications	A plan must provide written notice to participants if there is a material modification during the plan or policy year that would affect the content of material required to be included in the Summary Plan Description (SPD).	All Plans when changes have been made to the SPD	Distribute Electronically: See DOL Safe Harbor
Notice of Modifications to SBC	A plan must provide written notice to participants if it makes a material modification during the plan or policy year that would affect the content of material required to be included in the Summary of Benefits and Coverage (SBC).	All Plans when changes have been made to SBC	Distribute Electronically: See Footnote 1
HIPAA Notice of Privacy Practices	A covered entity must provide to individuals a notice of the plan's privacy practices upon enrollment and whenever there is a change to the Notice. The plan must also notify individuals then covered by the plan of the availability of and how to obtain the notice at least once every three years after the last distribution or notification. Please Note: A fully insured plan with no access to PHI other than summary health and enrollment information does not have to provide a privacy notice. If a fully insured plan has access to PHI, then the plan has to provide the notice only upon request.	Self-Insured Plans	Distribute Electronically: See DOL Safe Harbor

Footnotes:

[1] The SBC safe harbor allows the Notice of Modification or the SBC to be provided electronically to participants and beneficiaries in connection with their online enrollment or renewal of coverage. If online enrollment is not available, the Notice or SBC may be provided electronically according to the DOL safe harbor for participants covered under the plan. For participants and beneficiaries who are eligible but not enrolled, the Notice or SBC may be provided electronically if the format is readily accessible, which includes an Internet posting if the individuals are notified in paper form (such as a postcard) or via email that the documents are available on the Internet. Special rules may apply for non-federal governmental plans.

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