

legislative update

Model Exchange and COBRA Notices

On May 8th, the Department of Labor released the long-awaited Healthcare Exchange (now called Marketplaces) Model Notices. There are two versions of the Notices – one for employers who offer coverage, and one for those who don't. Additionally, the DOL took the opportunity to also update their model COBRA notices, as they needed modification in light of the availability of coverage through the Marketplaces.

Employers are required to distribute these notices in writing to all current employees no later than October 1, 2013, and then to new employees hired after October 1st within 14 days of their date of hire. Alternatively, employers are allowed to distribute the notice electronically as long as they abide by the DOL's electronic distribution safe harbor.

The model notice for employers who offer coverage is three pages in length, and includes details on what type of coverage is available to the employee. While filling in some of the fields is optional, all the details in the form will be needed by the employee should they go to the Marketplace, and therefore employers will need to weigh the administrative burden of including it on the notices versus responding to employee inquiries for the information once the Marketplaces open in October.

Employers are free to modify the form as long as all the required content is included.

You can find the model notice for groups with health plans at <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>, and for groups without plans at <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>. Instructions and other FAQs can be found at <http://www.dol.gov/ebsa/newsroom/tr13-02.html>.

As mentioned in the guidance, the DOL updated their model COBRA notices as well. These updates included changes as a result of the availability of Marketplace coverage, in addition to cleaning up the forms to no longer reflect certain legislative items (ARRA subsidies, the Fair Trade Tax Credit, etc.) that are or will soon expire. Employers can use these model notices or modify them as desired.

The updated COBRA model notice can be found at <http://www.dol.gov/ebsa/modelectionnotice.doc>, and a redlined version showing what has changed is available at <http://www.dol.gov/ebsa/modelectionnoticeredline.doc>