

# Employer Benefit Notices & Reminders

PRESENTED BY MARICIA M. MEYER  
DIRECTOR - HR SERVICES  
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# Disclaimer

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*The materials and information contained herein are intended only to provide general information and in no way constitute legal advice. If you have specific questions or concerns, please consult legal counsel.*

# Employer Benefit Notice Requirements Outside Open Enrollment

# Children's Health Insurance Program Reauthorization Act (CHIPRA)

Employer must inform employees of possible premium assistance opportunities available in the state they reside. DOL Model Notice

**Notice Requirement:** Annually before the start of each plan year.

**Model Notice** [dol.gov/agencies/ebsa/laws-and-regulations/laws/chipra](https://dol.gov/agencies/ebsa/laws-and-regulations/laws/chipra)

- ▶ English & Spanish
- ▶ Reminder: Notice updated throughout the year
- ▶ Distribution to ALL employees

**Consider:** Upon Hire with new Hire Paperwork

# Notice to Employees of Coverage Options (Marketplace Notice)

**Notice Requirements:** Within 14 days of Hire

**Model Notice:** <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/coverage-options-notice>

- Model Notice for employers who offer a health plan to some or all employees |  
[MS Word Format](#) | [Printer Friendly Version](#) | en español [MS Word Format](#) |  
[Printer Friendly Version](#)
- Model Notice for employers who do not offer a health plan | [MS Word Format](#) |  
[Printer Friendly Version](#) | en español [MS Word Format](#) | [Printer Friendly Format](#)
- [FAQ on Notice of Coverage Options](#)

# Medicare Part D Creditable Coverage Notice

- ▶ **Notice Requirements:** Prior to October 15, Annually
- ▶ **Applicability:** Health care plans include prescription drug benefits
- ▶ **Disclosure (2 Employer Obligations):**
  - ▶ Employers whose health care plans include prescription drug benefits for active employees (or retirees) who are Medicare-eligible must notify those covered individuals whether their drug benefit is "creditable coverage," meaning that it is expected to cover, on average, as much as the standard Medicare Part D prescription drug plan.
  - ▶ Plan sponsors must also report whether their drug benefit is creditable coverage to the federal Centers for Medicare & Medicaid Services (CMS) by March 1 for calendar-year plans, or 2 months after the start of the benefits Plan Year.
- ▶ **Resources:**
  - What is Creditable Coverage: <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Downloads/WHATISCREDITABLECOVERAGE.pdf>
  - Model Notices: <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Model-Notice-Letters>
  - Disclosure to CMS Guidance and Instructions: <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/CCDisclosure>

# Employer Benefit Notice Requirements at Open Enrollment

HIPAA

Special Enrollment Rights

Notice for  
Newborns' &  
Mothers' Health  
Protection Act  
(Newborns' Act)

Women's Health &  
Cancer Act of 1998  
(WHCRA)

Genetic  
Information  
Nondiscrimination  
Act (GINA) Notice

# Health Insurance Portability and Accountability Act (HIPAA) Notice

## Sample Notice:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) imposes numerous requirements on employer health plans concerning the use and disclosure of individual health information. This information known as protected health information (PHI) and includes all individually identifiable health information held by a health plan; whether received in writing, in an electronic medium or as oral communication. This notice describes the privacy practices of the Employee Benefits Plan (Plan), sponsored by your employer (plan sponsor).

The Plan is required by law to maintain the privacy of your health information and to provide you with this notice of the Plan's legal duties and privacy practices with respect to your health information. It is important to note that these rules apply to the Plan, not the plan sponsor as an employer. You have the right to inspect and copy protected health information which is maintained by and for the Plan for enrollment, payment, claims and case management. If you feel that protected health information about you is incorrect or incomplete, you may ask Human Resources/designated benefits representative for benefits information to amend the information.

For a full copy of the Notice of Privacy Practices describing how protected health information about you may be used and disclosed and how you can get access to the information, contact Human Resources/designated benefits representative.

**Resource:** <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/hipaa>

# Special Enrollment Rights Notice

Employees have additional opportunities to enroll in a group health plan if they experience a loss of other coverage or certain life events.

**Qualifying Life Events:** Change in marital status, birth or adoption of a child, death of dependent or change in employment status

**Sample Notice:**

<https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/compliance-assistance-guide-appendix-c.pdf>

# Notice for Newborns' & Mothers' Health Protection Act (Newborns' Act or NMHPA)

Group health plans that offer maternity hospital benefits for mothers and newborns generally may not restrict, under Federal law, benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery (or less than 96 hours following a cesarean section), unless the attending provider, in consultation with the mother, agrees and decides to discharge the mother or her newborn earlier.

Plans and issuers may not, under Federal law, require that a provider obtain authorization from the plan or the insurance issuer for prescribing a length of stay not in excess of 48 hours (or 96 hours, as applicable).

**Resources:** <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/nmhpaa>

# Women's Health & Cancer Act of 1998 (WHCRA)

Group health plans are required to provide benefits for mastectomy-related services.

If a plan participant had or is going to have a mastectomy, s/he may be entitled to certain benefits for mastectomy-related services including all stages of reconstruction and surgery to achieve symmetry between the breasts, prostheses, and complications resulting from a mastectomy, including lymphedema.

For individuals receiving mastectomy-related benefits, coverage will be provided in a manner determined in consultation with the attending physician and the patient, for:

- ▶ All stages of reconstruction of the breast on which the mastectomy was performed;
- ▶ Surgery and reconstruction of the other breast to produce a symmetrical appearance;
- ▶ Prostheses; and
- ▶ Treatment of physical complications resulting from a mastectomy, including lymphedema.

These benefits are provided subject to the same deductibles and coinsurance applicable to other medical and surgical benefits provided under the plan. Participants should review plan materials regarding any deductibles and/or coinsurance or contact the benefits contact representative with any questions, concerns and/or more information on WHCRA benefits.

**Resource:** <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/cagwhcra.pdf>

# Genetic Information Nondiscrimination Act (GINA) Notice

In compliance with Title II of the Genetic Information Nondiscrimination Act of 2008, discrimination of an individual on the basis of genetic information in regard to hiring, discharge, compensation, terms, conditions, or privileges of employment; intentional gathering or disclosure of an individual's genetic information; and retaliation against complaints about a GINA violation is prohibited.

Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members. A family member is broadly defined to include an individual who is the employee's dependent as the result of marriage, birth, adoption, or placement for adoption, or a first-, second-, third-, or fourth-degree relative of the employee, or of a dependent of the employee.

**Resources:** <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/publications/compliance-assistance-guide.pdf>

# Employer Disclosures that **MAY** be Applicable

- ▶ Michelle's Law
- ▶ Patient Protection Disclosure
- ▶ Grandfathered Health Plan Disclosure
- ▶ Wellness Program Disclosure
- ▶ COBRA General Notice

## Michelle's Law Disclosure

- ▶ Applicable when/if Employer has a requirement for **certification of student status** for coverage under the plan. (Notice must accompany certification)
- ▶ **Resource:**  
<https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/cagappb.pdf>

# Patient Protection Disclosure

- **Applicable if** Plan and/or issuer **requires or allows for the designation of primary care providers** by participants or beneficiaries must provide participants a disclosure notice.
- *Important that individuals enrolled in a Plan know of their rights to*
  - (1) *choose a primary care provider or a pediatrician when a plan or issuer requires designation of a primary care physician; or*
  - (2) *obtain obstetrical or gynecological care without prior authorization.*
- <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/patient-protection-model-notice.doc>

# Grandfathered Health Plan Disclosure

- ▶ **Applicable if Plan is Grandfathered**
- ▶ **Employer Reminder:**

*To maintain status as a grandfathered health plan, a plan or health insurance coverage must include a statement, in any plan materials provided to a participant or beneficiary describing the benefits provided under the plan or health insurance coverage, that the plan or coverage believes it is a grandfathered health plan within the meaning of section 1251 of the Patient Protection and Affordable Care Act and must provide contact information for questions and complaints.*
- ▶ **Disclosure Notice:**

<https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/grandfathered-health-plans-model-notice.doc>

# Wellness Program Disclosure

- ▶ **Applicable depending if Wellness Plan exists AND program's factors**
- ▶ **Employer Reminder:**  
For group health plans offering a wellness program that requires an individual to satisfy a standard related to a health factor, disclosure of the availability of a reasonable alternative standard must be disclosed
- ▶ **Disclosure Notice:**  
<https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/caghipaaandaca.pdf>

# Continuation of Coverage General Notice

- ▶ **Applicable depending if** Employer has **20 or more employees** in accordance with the Federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)
- ▶ **Employer Reminder:**

Each employee and each spouse of an employee who becomes covered under the plan, must be provided a general notice describing COBRA rights.

The general notice must be provided within the first 90 days of coverage.
- ▶ **Disclosure Notice:**

<https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/cobra/model-general-notice.docx>

Thank you!!



[eligibilitytrackingcalculators.com](http://eligibilitytrackingcalculators.com)

Corporate Offices  
San Antonio Texas  
Phone: 210-323-7846  
Maricia@etctracking.com