

The Health Insurance Marketplace will offer the first open enrollment period beginning on October 1, 2013 for a January 1, 2014 effective date. In an effort to assist individuals in making informed decisions, employers are required to provide a Health Insurance Marketplace Notification to all employees no later than October 1, 2013. The following information addresses common questions related to an employer's obligation to provide the Health Insurance Marketplace Notice.

### **Which employers will be required to distribute the Marketplace Notice?**

All employers subject to Fair Labor Standards Act (FLSA) are required to provide the notice. This includes governmental agencies, hospitals and other inpatient healthcare institutions, schools and businesses with at least one employee engaged in interstate commerce with receipts of at least \$500,000 annually.

### **Is an employer required to provide a notice if they do not provide medical benefits?**

Yes. The DOL provided a sample notice for employers that do not offer medical benefits.

### **Are employers required to use the DOL Model Notices?**

No. Employers are not required to use the DOL Model Notices. Employers choosing to use a modified version need to meet the content requirements.

### **What information is included on the Marketplace Notice?**

The Notice includes:

1. Notification of existence of the Marketplace including a description of the services provided by the Marketplace, and how the employee may contact the Marketplace for assistance;
2. Statement that the employee may be eligible for subsidized Marketplace coverage, if the employee obtains coverage through the Marketplace and the employer's plan fails to meet a 60% minimum value; and
3. Notice that if the individual purchases benefits through the Marketplace, the individual may lose the employer contribution to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes.

### **When are employers required to provide the Marketplace Notice?**

Employers must distribute Marketplace Notices no later than October 1, 2013 to employees hired on or before October 1, 2013. The notice should be provided on the date of hire to employees hired after October 1, 2013. In 2014, the notice must be provided within 14 days of the employee's start date.

### **Are employers required to provide the Marketplace Notice to all employees?**

Yes. Notices must be distributed to all full-time and part-time employees; regardless of enrollment in the medical benefits plan. Employers are not required to provide a separate notice to spouses or children of employees.

**Are employers required to provide the Marketplace Notice to COBRA participants?**

No. Employers are not required to provide a Marketplace Notice; however the DOL revised the COBRA Qualifying Event Notice to include information about the Marketplace.

**Can employers wait until open enrollment to distribute Marketplace Notices?**

Notices must be distributed by October 1, 2013. If your open enrollment will be held after October 1, 2013 you will be required to provide the notice prior to your open enrollment.

**Are employers required to distribute the Marketplace Notices in and alternate language?**

There is not stated requirement that notices must be provided in an alternate language; however guidance does state that the notice must be provided in a manner calculated to be understood by the average employee.

**What are approved delivery methods?**

Notices can be provided via first-class mail. Notices can be delivered electronically if the DOL electronic disclosure safe harbor is met.

**Sections 13 through 16 of the Marketplace Notice are optional. Should employers complete this information?**

Sections 13 through 16 require employee specific information. Completion of this information could be cumbersome for large employers; however this information will assist employees in determining if they are eligible for a premium tax credit. Employers that choose not to complete these sections should remove the last sentence on the prior page, which states, "Here's the employer information you'll enter when you visit HealthCare.gov to find out if you can get a tax credit to lower your monthly premiums."

**Part B, Page 2 of the Marketplace Notice asks for eligible employee information. What should employers identify here?**

Employers should indicate the number of hours required to work and other requirements to be considered an eligible employee. The next section asks for dependent eligibility. This section should include your spouse, domestic partner and dependent child requirements.

**Part B, Page 2 is asking if the employer plan meets the minimum value standard and if the cost of coverage is intended to meet affordability requirements are employers required to complete this information?**

While the employer mandate (pay or play penalty) was delayed until 2015, this portion of the notice is still required. Minimum value can be calculated using the Department of Health and Human Services (HHS) calculator.

**Employees are required to enroll through the exchange based on their state of residence. Are employers required to provide state specific notices?**

No. The Marketplace Notice does not vary by state.