Notices Checklist

Please follow the steps outlined below to comply with federal regulations.

Checklist Overview:

- ☐ 1. Attach Summary of Benefits and Coverage (SBC) for each health plan.
- ☐ 2. Attach Pharmacy benefits for each health plan, if not included in the SBC.
- ☐ 3. Review Section 3 titled Section 125, to determine if any action is required.
- ☐ 4. Distribute notices to eligible employees/participants.
- ☐ 5. Document how, when and to whom notices were distributed and maintain records going forward.
- ☐ 6. Complete the CMS Medicare Part D reporting within 60 days of renewal: https://surveys.cms.gov/jfe/form/SV_6ilHtZUoAtl92n4

1. Summary of Benefits and Coverage (SBC)

The employer is required to distribute the Summary of Benefits and Coverage (SBC) to all eligible, active employees and COBRA participants each year at open enrollment and to new hires before the start of their initial effective date of coverage. **The SBC or instructions on how to access the SBC will be sent by the health insurance carrier directly to the plan administrator.** SBC's must also be distributed to any employee within 7 days of a request and 60 days prior to any material change in benefits made to the plan mid-year (off renewal date).

2. Pharmacy Benefits

Please review your SBC to ensure the pharmacy benefits are included. If the SBC does not reflect the pharmacy benefits, please contact your insurance carrier directly.

3. Cafeteria (Section 125) Plan

If the cafeteria plan has an automatic negative enrollment (meaning employees deductions are pre-tax unless the employee otherwise elects), the plan is required to provide affected employees with a notice of automatic enrollment and the option to waive participation and elect post-tax deductions. Notification is required upon initial enrollment in any pre-tax benefit and annually thereafter. Additional information can be obtained at: http://www.irs.gov/pub/irs-irbs/irb02-20.pdf.

This information is provided for educational purposes only and should not be construed as legal or tax advice. The model notices are current as of September 2024.

4. Distribution of Notices

The DOL requires the annual notices be furnished in a way "reasonably calculated to ensure actual receipt." To ensure compliance, employers should use one of the DOL Safe Harbor methods listed:

ACCEPTABLE DELIVERY METHODS

1. **Electronic:** Work Email, posted to Intranet or personal email - (See attached **Electronic Delivery Methods**)
2. **Non-Electronic:** U.S. first class mail, hand delivery and company publications - (See attached **Non-Electronic Delivery Methods**)

Who Gets the Notices?

1. **Current employees (and new hires ongoing) participating in the health plan and COBRA participants:**
   - Participant Notice
   - CHIPRA Notice
   - Include/attach a copy of the prescription drug benefits with the notices, if not included in the SBC.
   - Include/attach a copy of the Summary of Benefits and Coverage (SBC)

2. **Current employees (and new hires ongoing) not participating in the health plan:**
   - Non-participant notice
   - CHIPRA notice
   - Include/attach a copy of the Summary of Benefits and Coverage (SBC)

3. **New Hires – within 14 days of date of hire:**
   - Health Exchange Notice
     - If this notice is being distributed to all new hires, there is no annual notice requirement.

5. Documentation of Distribution

ERISA requires the plan to retain evidence that the notices were provided, when they were provided and who received copies. **The plan should maintain a log of who received the notices, when/how the notices were provided and a copy of what was included**. This can be done by:

- Hand-delivery:
  - Retain a copy of notices, a listing of employee names for whom notices were distributed and the dates distributed.
- Mail:

    - Keep a copy of the notices, a listing of employee names and mailing addresses to whom notices were mailed and retain delivery notification evidence in a file.
- Electronic delivery (such as email, intranet, online portal, etc.):
    - Please Note: This option is only available if everyone has access to email as an integral part of the workday or if they have given written permission to receive notices electronically.
    - Retain a copy of the email with the distribution list.
- New Hire Packets:
    - Include notices on new hire checklist.

6. CMS Creditable Coverage Disclosure

Within 60 days after each policy/plan year begin date, employers are required to provide certain plan information to CMS regarding the creditable coverage status of their prescription drug plan. The reporting is completed through CMS' disclosure form: https://surveys.cms.gov/jfe/form/SV_6ilHtZUoAtl92n4. Please complete the applicable fields.

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[1]Employee Notice Document is a combined general notice and is not plan specific. The notices are generated through HR Service, Inc. and provided by Bim Group as a courtesy. The notices are not all inclusive. Specifically, the notices do not satisfy the following requirements:

- COBRA notices based on event https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra
- W-2 reporting and disclosure (applies to employers who distribute 250+ W-2s in a calendar year)
- Plan documents (including Summary Plan Descriptions, Summary of Material Modifications, certificate booklets, benefit summaries, Summary of Benefits and Coverage)
- Cafeteria (Section 125) opt out election notice
- Early Retiree Reinsurance Program Notice (if applicable)
- Summary Annual Report (SAR) if subject to 5500 filing (groups with 100+ participants)
- FMLA policy and notices
- QMSCO policy and notice