



For Your Benefit.

Required Health Plan Annual Notices – 2011 Edition

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As benefit and open enrollment planning begins for many organizations each fall, it should be remembered that there are a number of annual health plan notices that must be sent to plan participants each year. Below is a list of notices to keep in mind, and ensure that they are sent as necessary.

Medicare Part D

Each year, you must distribute the Notice of Creditable Coverage required under Medicare Part D, which informs participants whether the prescription drug coverage offered under your health plan is considered creditable or non-creditable coverage. The Notice of Creditable Coverage must be provided:

- At least once a year before **October 15th** (a new date this year, and the start of the annual Medicare Part D enrollment period).
- Whenever a Medicare-eligible employee enrolls in your health plan. You may also simply in-

clude this as part of your new-hire package to employees.

- Whenever there is a change in the creditable or non-creditable status of your health plan's prescription drug coverage.
- Whenever an individual requests the notice.

Each year within 60 days of the beginning of the plan year, the employer must also report to CMS whether your prescription drug coverage is creditable or non-creditable coverage. This must be electronically submitted via a Disclosure to CMS Form. Additional information can be found [here](#). You may wish to contact your insurance carrier, TPA, and/or prescription drug PBM for information on your plan(s).

Women's Health and Cancer Rights Act of 1998 (WHCRA)

At the initial enrollment and each year following, notice must be provided to plan participants regarding the availability of benefits for the treatment of mastectomy-related services, including reconstructive surgery, prostheses, and physical complications, including lymphedemas covered by the plan. Information must also be provided on how to obtain a detailed description of the mastectomy-related benefits available under the plan. More information can be found [here](#). You may wish to contact your insur-

ance carrier or TPA to see if they offer assistance on this notice.

HIPAA Notice of Privacy Practices

For employers who have enacted HIPAA Privacy Policies and Procedures, including those who receive Protected Health Information (PHI) and those that sponsor an FSA or HRA, an initial Notice of Privacy Practices was to have been provided to all plan participants at the adoption of the Policies and Procedures. Additionally, the participants must be made aware of the availability of and how to obtain the Notice of Privacy Practices at least once every three years.

Notice of Grandfather Status

If Grandfathered status is maintained under PPACA, a plan must include a notice in any plan materials given to existing and new employees and COBRA beneficiaries describing the benefits provided under the plan that they believe it is a grandfathered plan within the meaning of Section 1251 of the PPACA, and provide contact information for employees with questions. This notice must be provided for each year a plan maintains its grandfather status. This notice can be included as part of the open enrollment materials given to employees and COBRA beneficiaries.

Annual Children's Health Insurance Program (CHIP) Notice

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) extended and expanded the Children's Health Insurance Program (CHIP). States may choose under the Act to subsidize the cost of covering eligible children and families in employer health plans. In addition, employers are required to provide certain special enrollment rights related to the available coverage. Employers are also required to provide an annual written notice to employees about the potential premium assistance through this program.

The notice requirement applies to employers that offer any group health plan coverage (other than a plan that provides only HIPAA excepted benefits) to employees who reside in a state that offers a CHIP subsidy program, which most states do. The notice must be provided to all employees who reside in a state that offers such a program, even those who are not eligible to enroll in the plan. See the below link for information about individual state programs.

The notice must inform employees of the potential premium assistance available for coverage under the employer's plan, and contain contact information for the state program. The DOL has posted a [CHIP model notice](#). The model also includes contact in-

formation for all 40 states that currently offer a CHIP subsidy program. By listing all of the state information in one notice, an employer can send the same notice to all employees rather than creating a customized notice for each state.

The annual notice must be provided by the first day of the plan year. An employer that misses the deadline is subject to a civil penalty of up to \$100 per employee per day that the notice is late.

Please let your representative at Kushner & Company know if we can be of any assistance with the above items, or any benefits related questions.

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