

Not Everything in Health Reform is Delayed: Employers Must Send Notices to Employees by October 1

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By October 1, 2013, employers must notify their current employees, in writing, about their health insurance options under the new Health Exchanges in 2014.

The notice requirement applies to all employers subject to the Fair Labor Standards Act ("FLSA"). FLSA generally applies to employers that employ one or more employees who are engaged in, or produce goods for, interstate commerce. FLSA also specifically covers hospitals and resident care institutions for the sick, disabled, and aged; schools; and federal, state, and local government agencies.

The notice must be provided to each current employee on or before October 1, 2013, regardless of whether the employee currently has health coverage, or works full- or part-time. For anyone hired after October 1, 2013, the notice must be provided at the time of hire (during 2013 and 2014, "time of hire" means within 14 days of an employee's start date). [Employers are not required to provide a separate notice to dependents, even if they are covered under the employer's health plan.]

The simplest way to comply is to choose the appropriate model notice and distribute it to current employees by hand, by first class mail, or electronically (if certain ERISA requirements are met).

There is one model notice for employers that do not have a health plan, and one model notice for employers that do have a health plan, which requires a bit of customizing.

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