

Summary of Required Notices

August 2011



Required Notice	Frequency	Initial Distribution Requirements	Ongoing Distribution Requirements	Practical Communication Recommendations
Summary Plan Description (SPD)	Varies	<ul style="list-style-type: none"> Within 120 days of the effective date of a new plan Within 90 days of an individual becoming a participant or a beneficiary first receiving a benefit 	<ul style="list-style-type: none"> Generally, every 5 years However, if there have been no material changes, every 10 years 	<ul style="list-style-type: none"> If the makeup of your audience allows you to comply with ERISA's electronic disclosure rules, put SPDs online (true interactive online documents, not PDFs) for easy access and even easier updating. Include streaming print versions in case you need to send an SPD on request. Back up your online SPDs whenever you make any kind of change.
Summary of Material Modification (SMM)	Varies		<ul style="list-style-type: none"> Not later than 210 days after the end of the plan year in which a change was adopted BUT, for group health plans, provide an SMM within 60 days of adopting a material reduction in benefits 	<ul style="list-style-type: none"> If changes are complex or numerous, issue a new SPD instead of an SMM For online SPDs, just update SPD and notify participants. Back up your online SPDs whenever you make any kind of change.
NEW Patient Protection and Affordable Care Act (PPACA) – Grandfather Status Model Notice	Ongoing until grandfathered status is lost	<i>Only applies to grandfathered plans</i>	Notice language (or version thereof) should be included in SPD and all "plan materials" describing benefits	<ul style="list-style-type: none"> Include in Open Enrollment materials in Fall of 2010 and thereafter until grandfathered status is lost Include in all affected SPDs for PY 2011 and thereafter until grandfathered status is lost
NEW Patient Protection and Affordable Care Act (PPACA) – Choice of Provider Model Notice	Ongoing	<p><i>Only applies to NON-grandfathered plans</i></p> <p>Notice must be provided on or before first plan year beginning after 9.23.10 (for calendar year plans, this would be on or before 1.1.11)</p> <p>Thereafter, upon enrollment</p>	Notice language (or version thereof) should be included in SPD	<ul style="list-style-type: none"> If applicable, include in Open Enrollment in the Fall of 2010 or updated SPD if updated on time Must include in SPD thereafter Modify model language to make sense with plan rules Existing plans should just go ahead and modify SPD language to comply if current plan provisions/procedures already match the requirements of the PPACA
PPA Pension Funding Notice	Annually		<ul style="list-style-type: none"> 120 days after the close of the plan year (Generally, April 30) Mail to home 	<ul style="list-style-type: none"> This notice must be distributed annually. Use model notice or notice provided by your actuary
Newborn's Mother Health Protection Act	Ongoing	Notice must be provided; can be in SPD or separate notice	Notice should be included in SPD, including any applicable state rights	<ul style="list-style-type: none"> Include in SPD (give SPD to new hires at or before enrollment.) This satisfies your notice requirement.

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COBRA	Ongoing	Upon enrollment (within 90 days of becoming covered)	Mail to home with every qualifying event	<ul style="list-style-type: none"> Include notice in SPD (give SPD to new hires within 90 days of enrollment. This satisfies your initial notice requirement) Thereafter, send notice to individual with every qualifying event (not OE), along with COBRA enrollment forms, rates, instructions, etc
HIPAA Privacy	Ongoing	At or before initial enrollment opportunity	Reminder of right to receive notice every three years	<p>Several ways to do this...</p> <ul style="list-style-type: none"> Mail/electronically deliver (if eligible) notice separately from the SPD OR Post an link to as part of online SPDs In print SPDs, include notice itself or brief information about how to get notice Put reminder in Open Enrollment materials every three years. Next year to comply is 2012. (Initial notice was April 2003, so put reminder in 2011 OE materials if your initial notice went out 4.03)
HIPAA Special Enrollment Rights (including CHIPRA special enrollment rights)	Ongoing	At or before initial enrollment opportunity	Notice should be included in SPD	<ul style="list-style-type: none"> Include in SPD (give SPD to new hires at or before enrollment.) This satisfies your notice requirement
NEW CHIPRA Notice	Annually	The initial CHIPRA notice must be sent to all employees starting with the first plan year after February 4, 2010. Therefore, for calendar year plans, the first notice must be sent by January 1, 2011.	Annually. Notice should be included in Annual Enrollment materials (if online) or mailed to home. However, it cannot just be incorporated in a separate mailing to the home; it must be a stand-alone document.	<ul style="list-style-type: none"> Do not include in SPD (it's really long). Plus this notice <u>must</u> be distributed annually. You may want to include a link to it in an online SPD however. If you send print Open Enrollment materials, do not include. Too many notices distract from your OE messages. Instead, send out annually as part of a separate mailing that includes SARs and Women's Health & Cancer Rights Act notice. If Open Enrollment materials are online, include notice on OE Site and a link to "Important Notices" on the home page or within the navigation so that they are visible.
Medicare Part D – Creditable Coverage Notice	Annually		Annually. Mail to home	<ul style="list-style-type: none"> Do not include in SPD (it's really long). Plus this notice <u>must</u> be distributed annually. This notice ONLY applies to individuals who are eligible for Medicare (or will be within 12 months) and must be distributed before the Medicare Part D annual enrollment period. For current date of distribution, check the regs. As of 2011, it was anytime before October 15 each year. Send to retirees and employees that may become eligible for Medicare. Do not send to ineligible active employees (could be confusing to them), but check with your attorney. Put a large note at the top of the model notice that this notice only applies to individuals who are eligible for Medicare or who will become eligible for Medicare in the next 12 months.

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Women's Health & Cancer Rights Act (WHCRA)	Annually	Upon enrollment	Annually. Notice can be included in SPD if plan distributes SPD annually. Otherwise notice should be provided in a separate annual mailing	<ul style="list-style-type: none"> ▪ This notice must be distributed annually. ▪ Also include in SPD (give SPD to new hires at or before enrollment. This satisfies your initial notice requirement.). Coverage info that's in the notice needs to be in your SPD anyway, so include it. ▪ If you send print Open Enrollment materials, do not include. Too many notices distract from your OE messages. Instead, send out annually as part of a separate mailing that includes SARs and CHIPRA notice. ▪ If Open Enrollment materials are online, include notice on OE Site and a link to "Important Notices" on the home page or within the navigation so that they are visible.
Summary Annual Report (SAR)	Annually		<ul style="list-style-type: none"> ▪ Within 9 months of plan year ending or 2 months after due date for filing Form 5500 (with approved extension) ▪ The Pension Protection Act of 2006, eliminated the SAR requirement for defined benefit plans subject to the pension funding notice 	<ul style="list-style-type: none"> ▪ SARs must be distributed annually. ▪ Send out as part of a separate mailing that might also include Women's Health & Cancer and CHIPRA notices ▪ Combo all SARs into one packet and reproduce as inexpensively as possible
Michelle's law	SEE NOTES	SEE NOTES	SEE NOTES	<p>NOTES:</p> <ul style="list-style-type: none"> ▪ Michelle's law was enacted to provide continued coverage to college age children who become ill, resulting in loss of student status, which in the past would also result in loss of health care coverage. ▪ Today, there are very few scenarios where Michelle's Law will provide more coverage to adult children than health care reform. One instance in which you might include the Michelle's law notice would be in a stand-alone retiree medical plan (not subject to health care reform). ▪ Consult your ERISA attorney for guidance as to whether you should include the Michelle's Law notice in your SPDs and which ones.

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