

Compliance Center of Excellence

Guide to Annual/Recurring Federal Health and Welfare Plan Participant Notices and Disclosures

Last Updated May 2020

A number of health and welfare plan notices and disclosure requirements apply to group health plans (referred to as “GHPs” or “plans” for the remainder of this “Guide”). Delivery can be delegated to an insurance carrier or third party administrator (TPA), although the compliance obligation generally belongs to the plan sponsor or plan administrator.¹ The employer is usually both the plan sponsor and plan administrator for a single employer plan. This Guide will highlight many federally required notices and disclosures, their purpose, when they must be provided, and delivery methods. Links to model notices and additional resources will also be provided.

We will also address certain other related federal notice and disclosure requirements applicable to employers that do not depend solely on whether the employer offers health coverage to its employees. For convenience, we will provide a Glossary of Legal Acronyms used in this Guide at the end.

NOTE: This Guide does not include event specific notices such as COBRA election materials or state/local notices and disclosures.

In this Guide:

- [Table of Notices and Disclosures](#)
- [Electronic Versus Paper Delivery](#)
- [Foreign Language Requirements](#)
- [Glossary of Legal Acronyms](#)

¹ The employer may be entitled to damages if an insurance carrier or TPA has contractually agreed to perform this service and fails.

Temporary Relief during COVID-19 Pandemic

On April 28, 2020, the U.S. Department of Labor (DOL) and U.S. Department of the Treasury (“Treasury”) coordinated the release of a [Notice](#) and a [Final Rule](#) related to the COVID-19 pandemic that affect the notice and disclosure rules for group health plans. The Final Rule defines the term “Outbreak Period” to mean the period beginning March 1, 2020 and ending 60 days after the announced end of the COVID-19 National Emergency or such other date or dates announced by the DOL and/or Treasury in future guidance.

The Notice suspends many of the specific delivery timing requirements for the notices and disclosures described in this Guide during the Outbreak Period and instead requires the responsible parties to deliver the material in good faith and as soon as it is administratively practical to do so.

The DOL released updated COBRA notices on May 1, 2020, and the model COBRA General Notice described in this Guide is the current version. Interestingly, this updated model notice does not reflect any of the modified participant rights during the Outbreak Period. The DOL and Treasury have not released any other updated group health plan model notices, and we did not independently revise the HIPAA Special Enrollment Rights Notice described in this Guide. Under the Notice’s “good faith” communication standard, it may be reasonable to notify employees and participants of their modified special enrollment rights during the Outbreak Period by providing the DOL’s [COVID-19 FAQs](#) rather than providing a modified temporary HIPAA Special Enrollment Rights Notice.

The Notice also relaxes the electronic delivery requirements described in this Guide. During the Outbreak Period, the DOL authorizes communication with employees and participants via emails, text messages, and/or websites as “good faith” delivery of communication so long as the responsible party reasonably believes plan participants and beneficiaries have effective access to the electronic means of communication and/or continuous access to websites.

Please see our [Alert](#) for more information about the effects of the Notice and Final Rule for certain notice and disclosure requirements.

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Table of Notices and Disclosures

Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ²
General Notices or Disclosures			
Summary Plan Description (SPD) Plans subject to ERISA Responsibility: Plan Administrator	Notifies participants of their benefits, rights, and obligations under the plan as well as certain obligations of the plan and plan administrator	Within 90 days of enrollment Within 120 days of the effective date of coverage if a new plan Within 30 days upon request Republished at least every 5 years if amended Republished every 10 years if no amendments	The SPD itself <i>Note: Most insurance carrier/TPA provided material, such as booklets or certificates of coverage, will not satisfy all of ERISA's SPD requirements by themselves</i>
Summary of Material Modifications (SMM) Plans subject to ERISA Responsibility: Plan Administrator	An SMM is an amendment that is not reflected in the current SPD	Material reduction in benefits (includes plan termination) – within 60 days of the date the amendment is adopted ³ Other modifications – within 210 days of the end of the plan year in which the amendment took effect	The timing requirements enable many SMMs to be delivered in an updated SPD and/or in annual enrollment materials without the need to issue a separate SMM

² In some instances, a suggested delivery requirement may reach a broader audience than is technically required but at no harm to the employer.

³ Note: This is not the same as 60 days from the date the amendment is effective.

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ⁴
General Notices or Disclosures			
<p>Summary Annual Report (SAR)</p> <p>Fully-insured plans and “funded” plans subject to ERISA⁵</p> <p>Responsibility: Plan Administrator</p>	<p>Provides a summary of financial information found in the corresponding Form 5500 filing and notifies participants of their right to request a copy</p> <p>SAR Template</p>	<p>Within 9 months of the close of the plan year; or</p> <p>Within 2 months after the corresponding Form 5500 due date (can be affected by a Form 5500 extension)</p>	<p>Generally provided separately</p> <p>May be combined with other materials</p>
<p>Model COBRA General Notice⁶</p> <p>GHPs</p> <p><u>Exemptions:</u></p> <ul style="list-style-type: none"> - GHPS of employers with <20 employees in the prior year⁷ - Church plans - Non-federal government plans if PHSA does not apply <p>Responsibility: Plan Administrator</p>	<p>Notifies participants of a right to continue coverage under certain circumstances</p> <p>Model Notice</p>	<p>Within 90 days of the effective date of coverage</p>	<p>May be provided separately in new hire packets</p> <p>May be provided in enrollment materials or in a packet of legal notices⁸</p> <p><i>Note: The SPD must also include COBRA rights information, although the information disclosed in an SPD typically differs from this notice and may not always meet this notice’s timing requirement</i></p>

⁴ In some instances, a suggested delivery requirement may reach a broader audience than is technically required but at no harm to the employer.

⁵ Plans that are self-insured and paid solely out of an employer’s general assets are not actually required to provide a SAR, although many do so voluntarily. A plan is “funded” if the assets are held in a trust or are otherwise segregated from the employer’s general assets.

⁶ There are a variety of other COBRA notices that apply when one or more specific events occur that are not addressed within this Guide.

⁷ This is determined on a controlled group basis.

⁸ There is a specific delivery requirement for covered spouses, and an employer may need to mail this material – or mail the COBRA general notice separately – to the employee’s residence (or separate spouse’s residence if known to the employer) in order to meet it.

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ⁹
General Notices or Disclosures			
<p>HIPAA Special Enrollment Rights</p> <p>GHPs subject to HIPAA’s portability rules (does not apply to HIPAA-excepted benefits)</p> <p>Responsibility: Plan Administrator</p>	<p>Notifies employees of the right to enroll in GHP coverage outside the initial or annual enrollment period if certain events occur</p> <p>Model Notice</p>	<p>Must be provided at or before the initial opportunity to enroll</p>	<p>May be provided separately in new hire packets</p> <p>May be provided in enrollment materials or in a packet of legal notices</p>
<p>HIPAA Notice of Privacy Practices</p> <p>GHPs</p> <p>Responsibility: The HIPAA “Covered Entity” is the GHP itself – The insurance carrier for a fully-insured GHP/ The plan sponsor acting on behalf of a self-insured GHP</p>	<p>Notifies participants how a GHP will or may use participant protected health information and participant rights with respect to their health information</p> <p>Model Notice</p>	<p>When a participant enrolls in the GHP</p> <p>Within a reasonable period of time after a participant requests a copy</p> <p>Within 60 days of a material revision to the notice</p>	<p>May be provided separately in new hire packets</p> <p>May be provided in enrollment materials or in a packet of legal notices</p> <p>Must also be posted electronically if the employer/plan sponsor maintains a website</p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ¹⁰
General Notices or Disclosures			
<p>HIPAA Privacy Notice of Availability</p> <p>GHPs</p> <p>Responsibility: The HIPAA “Covered Entity” is the GHP itself – The insurance carrier for a fully-insured GHP/ The plan sponsor acting on behalf of a self-insured GHP</p>	<p>Reminds participants of the existence of the HIPAA NPP and how to get a copy</p>	<p>Must be provided to participants at least every three years</p>	<p>May be provided separately in new hire packets</p> <p>May be provided in enrollment materials or in a packet of legal notices</p> <p><i>Note: If the full HIPAA NPP is provided in new hire packets, this HIPAA NOA may take the place of the larger HIPAA NPP in enrollment materials and legal notices packets provided annually</i></p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ¹¹
General Notices or Disclosures			
<p>HIPAA Wellness Program Reasonable Alternative Standards Notice</p> <p>GHPs offering a wellness program requiring individuals to meet a standard related to a health factor</p> <p>Responsibility: Plan Administrator</p>	<p>Notifies participants of the opportunity to achieve an incentive by satisfying an alternative standard</p> <p>Model Notice</p>	<p>N/A</p>	<p>Must be disclosed in all materials describing the wellness program and the standards required to achieve incentives</p> <p>This will generally include the SPD and any wellness program-specific materials provided to participants</p> <p>This may also include enrollment materials</p>
<p>ADA Wellness Program Notice</p> <p>Wellness programs subject to the ADA</p> <p>Responsibility: Employer</p>	<p>Notifies employees that the wellness program is subject to the ADA, whether incentives will be provided for participation, and how any health information collected may be used</p> <p>Model Notice</p>	<p>Annually before participation in the wellness program</p>	<p>Should be disclosed in wellness program materials</p> <p>May also be provided in enrollment materials or in a packet of legal notices</p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ¹²
General Notices or Disclosures			
<p>CHIP Notice</p> <p>Employers who sponsor GHPs in one or more states that provide premium assistance through Medicaid or CHIP toward employer GHP coverage</p> <p>Responsibility: Employer</p>	<p>Notifies employees that premium assistance may be available to help pay for employer coverage if the employee and/or any dependents are eligible for Medicaid or CHIP</p> <p>Model Notice</p>	<p>Must be provided annually to employees eligible for GHP coverage</p>	<p>May be provided in enrollment materials or in a packet of legal notices</p> <p>May also be included in a SPD, although SPDs may not be available to those who are eligible but not enrolled or understood by those individuals that this is where the notice is located</p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ¹³
General Notices or Disclosures			
<p>Medicare Part D Creditable/ Non-Creditable Coverage Notice</p> <p>GHPs that provide prescription drug coverage to Medicare Part D eligible individuals</p> <p>Responsibility: Plan sponsor (usually the employer)</p>	<p>Notifies individuals whether the employer-provided prescription drug coverage is at least as good as the coverage available through Medicare Part D</p> <p>Model Notices</p>	<p>Prior to the Medicare Part D Annual Election Period beginning on October 15th each year</p> <p>Prior to an individual’s initial enrollment period for Medicare Part D</p> <p>Prior to the effective date of coverage for any Medicare-eligible individual that joins the employer’s plan</p> <p>Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable</p> <p>Within a reasonable amount of time after an individual requests a copy</p>	<p>May be provided separately or in a packet of legal notices</p> <p>May be provided in enrollment materials if these are provided in time to meet the due date</p> <p><i>Note: If provided with other materials, this notice must either appear on the first page (after a table of contents is sufficient) or a call-out box must appear on the first page indicating this notice is included in the packet and where it may be found</i></p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ¹⁴
General Notices or Disclosures			
<p>NMHPA Notice</p> <p>GHPs that provide hospitalization benefits in connection with childbirth</p> <p><u>Exemption:</u></p> <ul style="list-style-type: none"> - Non-federal government plans that opt out <p>Responsibility: Plan Administrator</p>	<p>Notifies participants of their rights with respect to certain maternity coverage and related services that must be covered by group medical plans</p> <p>Model Notice</p>	<p>Must be provided when a participant enrolls in the GHP</p>	<p>The protected rights must appear in the SPD which can completely satisfy this notice requirement, although it doesn't have to officially identify itself as this notice</p> <p>May be provided in enrollment materials or in a packet of legal notices</p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ¹⁵
General Notices or Disclosures			
<p>WHCRA Notice</p> <p>GHPs that provide mastectomy benefits</p> <p>Responsibility: Plan Administrator</p>	<p>This notice is a description of mastectomy coverage and related services that must be covered by group medical plans</p> <p>Model Notice</p>	<p>Must be provided when a participant enrolls in the GHP and annually thereafter</p>	<p>The protected rights must appear in the SPD, although it doesn't have to officially identify itself as this notice</p> <p>May be provided in enrollment materials or in a packet of legal notices, which is a recommended approach to meet the annual notification requirement</p>
<p>QMCSO/NMSN Disclosure</p> <p>GHPs¹⁶</p> <p>Church and governmental plans are not subject to QMCSOs, but are subject to NMSNs</p> <p>Responsibility: Plan Administrator</p>	<p>Notifies employees of the procedures for administering a court or agency order requiring the employee to provide coverage for a dependent child</p> <p>Additional resources</p>	<p>A disclosure of how the GHP will administer a QMCSO/NMSN should be included in the SPD provided in connection with enrollment</p> <p>The plan administrator must timely notify the employee when a QMCSO/NMSN has been received¹⁷</p> <p>The plan administrator must timely respond to the court/agency</p>	<p>The SPD can include this disclosure, although it is more common to incorporate where the procedures may be found by reference</p> <p>Specific communications are required when a QMCSO/NMSN has been received</p>

¹⁵ In some instances, a suggested delivery requirement may reach a broader audience than is technically required but at no harm to the employer.

¹⁶ A GHP that does not offer dependent coverage is not exempt and would have to respond to the issuing court or agency that dependent coverage is not available.

¹⁷ This notice content may be found in the Additional Resources

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ¹⁸
ACA-Specific Notices or Disclosures			
<p>Exchange (Marketplace) Notice</p> <p>Responsibility: Employer</p>	<p>Officially known as the Notice to Employees of Coverage Options, this notice is intended to notify employees if the employer provides coverage and the availability of alternative coverage through the Public Insurance Exchange</p> <p>Model Notices</p>	<p>Within 14 days of the date of hire</p> <p>There is no ongoing obligation to provide individuals with subsequent notice¹⁹</p>	<p>We recommend providing these in new hire packets</p> <p>Note: The model notices have not been updated to reflect current enrollment periods or affordability, and an employer may wish to tailor it for the current year</p>
<p>Summary of Benefits and Coverage (SBC)</p> <p>GHPs subject to the ACA</p> <p><u>Exemption:</u> - ACA-excepted benefits</p> <p>Responsibility: Plan Administrator for self-insured plans/ Plan Administrator and insurance carrier for fully-insured plans</p>	<p>The SBC is intended to provide basic benefits and coverage information to assist individuals with making an informed enrollment decision</p> <p>Model SBCs and Uniform Glossary</p>	<p>In enrollment materials:</p> <ul style="list-style-type: none"> ○ If enrollment is automatic (i.e. “passive” or “evergreen”), at least 30 days before the plan year begins ○ If the coverage is fully-insured and the policy has not been finalized for the next plan year, the SBC must be provided as practical and no later than 7 days after the policy is issued <p>Within 90 days of a HIPAA special enrollment</p> <p>Within 7 business days upon request</p>	<p>Must generally be provided in enrollment materials, either provided separately in connection with enrollment materials or incorporated within the enrollment materials</p> <p>Since these must also be provided upon request, providing separately in connection with enrollment materials may be less cumbersome</p> <p>At annual enrollment, SBC delivery can be limited to the plan option an individual is actually enrolled in, although many employers will deliver all at once (especially if delivered electronically)</p>

¹⁸ In some instances, a suggested delivery requirement may reach a broader audience than is technically required but at no harm to the employer.

¹⁹ There does not appear to be a requirement for an employer to provide a new notice to existing employees if the employer ceases to offer coverage or begins offering coverage at a later date.

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ²⁰
ACA-Specific Notices or Disclosures			
<p>Grandfathered Status Notice</p> <p>GHPs claiming grandfathered status under the ACA</p> <p>Responsibility: Plan Administrator</p>	<p>Notifies participants that the GHP is not required to comply with certain ACA mandates</p> <p>Model Notice</p>	N/A (see Delivery Methods)	<p>Must be provided in all written materials describing the plan, including the SPD and enrollment materials</p>
<p>Patient Protections Notice</p> <p>GHPs subject to the ACA</p> <p><u>Exemptions:</u></p> <ul style="list-style-type: none"> - Grandfathered plans - ACA-excepted benefits <p>Responsibility: Plan Administrator</p>	<p>GHPs that require designation of a primary care provider must notify participants of the plan's designation requirements and certain rights to select providers</p> <p>Model Notice</p>	<p>Must be provided when an SPD is provided to the participant</p>	<p>This notice requirement can be satisfied by including the information in the SPD</p> <p>May be provided in enrollment materials or in a packet of legal notices</p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ²¹
ACA-Specific Notices or Disclosures			
<p>Form 1095:</p> <p>Form 1095-C by ACA-defined applicable large employers</p> <p>Form 1095-B by insurance carriers to participants for fully-insured coverage; by small employers to participants in self-insured coverage</p>	<p><u>Form 1095-C</u> Addresses both employer mandate reporting (Section 6056) and individual mandate reporting (Section 6055) for self-insured coverage</p> <p><u>Form 1095-B</u> Includes individual mandate reporting only and used by insurers for fully-insured coverage; Form 1095-B may also be used by</p> <ul style="list-style-type: none"> ○ Multi-employer plans ○ For covered individuals in self-insured plans not subject to employer mandate reporting ○ Small employers (<50 FTEs) with self-insured coverage 	<p>By the following January 31st for each calendar year unless extended</p> <p>Matching forms with an accompanying Form 1094 must also be provided to the IRS; different due dates apply</p>	<p>The delivery timing generally requires these to be provided independently from other materials</p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ²²
ACA-Specific Notices or Disclosures			
<p>ACA Section 1557 Notice of Nondiscrimination</p> <p>Responsibility: “Covered Entities” which are generally health care providers²³ or GHPs that receive federal funding from the Dept. of Health and Human Services</p> <p>If an insurance carrier is subject to this notice due to any of its GHPs, the notice requirement generally applies to all fully-insured plans offered by the carrier</p>	<p>Notifies participants that the GHP may not refuse to treat or otherwise discriminate against an individual based on the individual’s race, color, national origin, sex, age, or disability</p> <p>Model Notices</p>	<p>Must be provided annually and include information about the availability of assistance in other languages</p>	<p>For a GHP, this notice requirement can be satisfied by including the information in the SPD</p> <p><i>Note: Many GHPs comply with this without being legally required to do so; this is often due to a carrier/TPA attempting to standardize its book of business</i></p>

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²³ We do not address the requirements for health care providers in this Guide.

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ²⁴
Other Notices or Disclosures			
<p>FMLA Rights Disclosure</p> <p>Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year</p> <p>Governmental employers</p> <p>Public or private elementary or secondary school, regardless of number of employees</p> <p>Responsibility: Employer (Plan Administrator for GHP disclosure, see Delivery Methods)</p>	<p>Notifies employees of their rights, benefits, and obligations under the FMLA</p> <p>Model Poster</p>	<p>Various (see Delivery Methods)</p>	<p>Must be prominently displayed in public areas such as breakrooms</p> <p>We recommend including this notice in new hire packets</p> <p>This should be included in an employee handbook and/or an employer leave policy</p> <p>We interpret ERISA to require disclosure of certain FMLA rights to continue or suspend coverage during FMLA leave in an SPD (for employers subject to ERISA) which could be an incorporation by reference to an employer leave policy</p>

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Notice or Disclosure and Responsible Party	Purpose and Model (if available)	When to Deliver	Delivery Document(s) ²⁵
Other Notices or Disclosures			
<p>USERRA Rights Disclosure</p> <p>All public and private sector employers</p> <p>Responsibility: Employer</p>	<p>Notifies employees of their rights, benefits, and obligations under USERRA</p> <p>Model Poster</p>	<p>Various (see Delivery Methods)</p>	<p>Must be prominently displayed in public areas such as breakrooms</p> <p>We recommend including this notice in new hire packets</p> <p>This should be included in an employee handbook and/or an employer leave policy</p> <p>We interpret ERISA to require disclosure of certain USERRA rights to continue or suspend coverage during USERRA leave in an SPD (for employers subject to ERISA) which could be an incorporation by reference to an employer leave policy</p>

²⁵ In some instances, a suggested delivery requirement may reach a broader audience than is technically required but at no harm to the employer.

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Electronic Versus Paper Delivery

These materials must be distributed in a way that is reasonably calculated to ensure that the participants receive the materials. Employers may use electronic and/or paper delivery, although an employer may only rely upon electronic delivery for receipt purposes if certain requirements are met.

Electronic Delivery Requirements

The electronic delivery requirements vary somewhat across the different types of notices and whether ERISA applies, but the following can be used as a general summary:

1. Employee has work-related computer access – Disclosures may be made electronically to employees who use computers as an integral part of their job. Employers are not required to get consent to electronic disclosure from these individuals.
2. Employee does not have work-related computer access – If an employee does not use a computer as an integral part of their job, an employer may rely on electronic delivery if the employee provides advance consent.
 - a. Online delivery – If delivery will occur via email or through the company’s web portal, the employee’s consent should also occur via email or through the company’s web portal. The consent method does not have to match the delivery method.

Example

An employee can consent to electronic delivery as part of the annual enrollment process on the company’s web portal, and this consent can allow for delivery through both email and/or the company’s web portal.

The employee must either agree to delivery to the employee’s work email address or provide an alternate email address.²⁶

- b. Offline delivery – If delivery will occur via portable electronic media (e.g. CD/DVD), the consent does not have to be provided electronically. The consent should indicate the employee is agreeing to delivery to the employee’s home address. The employee’s work address should not be used.

The consent should indicate what kinds of notices and disclosures will be provided electronically as well as the employee’s right to later revoke their consent. We will provide a sample Consent to Electronic Delivery form at the end of this section.

²⁶ A work email address will not satisfy the delivery requirement for the COBRA general notice to a covered spouse.

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Electronic Delivery Formats

If the electronic delivery requirements are met, electronic delivery of notices and disclosures can occur in a variety of ways:

- Email – Notices and disclosures may be provided within the body of an email, as hyperlinks to a company’s web portal, or as attachments (e.g. as a .pdf).

Electronic Versus Paper Delivery

- Web portal address – Hyperlinks to a company’s web portal may be provided within an email, or the web portal address information may be provided in written material such as an annual enrollment guide or postcard.
- Other electronic media – Notices and disclosures may be provided by CD/DVD or other portable electronic media.

Paper copies of the notices and disclosures must still be made available upon request and many must be provided free of charge.

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Sample Consent to Electronic Delivery

The following is a sample Consent to Electronic Delivery form. As drafted, it is intended to be delivered and executed electronically as part of an employer's web-based open enrollment process, but it can be modified for other use.

ABC Company Consent to Electronic Delivery

I agree to permit ABC Company ("ABC") to provide all employee benefit disclosures that may be delivered to me electronically under applicable law including summary plan descriptions, summaries of material modification, summary annual reports, and any other "Notice" a similarly situated employee would consider to be related to employee benefits, to my ABC work email address or other email address that I provide in my [insert HR system name] contact information. I understand that I can update my email address in [insert HR system name] by [insert process].

For the purposes of this consent, a "Notice" is any document, disclosure, policy, procedure, form, or other written material related to my employee benefits that ABC may legally be required to provide to me.

I understand and agree that:

- I have had an opportunity to view and print these disclosures which are found on ABC's intranet portal at [insert web address];
- I have the ability to access employee benefit disclosures sent to my work email address or other email address I have provided, which includes access to ABC's intranet portal if included as a hyperlink in an email sent to the email address;
- I may change my email address for delivery of these notices by updating my contact information in [insert HR system name];
- I may request printed copies of these notices free of charge by contacting [insert contact information]; and
- I may revoke this consent and request all notices be mailed to me by contacting [insert contact information].

I agree that by using the e-signature feature on this portal I am applying my electronic signature which is the legally binding equivalent to my handwritten signature. Whenever I execute an electronic signature, it has the same validity and meaning as my handwritten signature. I also agree that no certification authority or other third-party verification is necessary to validate my e-signature.

[E-Signature]

Date: []

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Foreign Language Requirements

Foreign language requirements apply to certain federal health and welfare notices and disclosures, and these requirements are summarized below:

Notice or Disclosure	When Foreign Language Requirement Applies	Foreign Language Requirement
<p>SPD</p> <p>SMM</p> <p>SAR</p>	<p>1. A large plan covering 100 or more participants at the beginning of the year must provide language assistance if the lesser of:</p> <p>(a) 10% of the participants, or</p> <p>(b) 500 or more participants</p> <p>are only literate in the same non-English language</p> <p>2. A small plan covering fewer than 100 participants at the beginning of the plan year must provide language assistance if at least 25% of the participants are only literate in the same non-English language</p>	<p>The SPD, SMM, or SAR must include a notice in the applicable foreign language(s) that assistance is available</p> <p>The following may be used as a safe harbor:</p> <div style="border: 1px solid black; padding: 5px;"> <p><i>"This document contains a summary in English of information about the [insert plan name]. If you have difficulty understanding any part of this document, contact your Plan Administrator at [insert telephone number] during regular business hours or by email at [insert email address]."</i></p> </div> <p>We recommend this or similar language appear on the cover of the SPD, and be displayed prominently at the beginning of an SMM or SAR</p> <p>Note: ERISA does not actually require full translations of these materials, but plan administrators may choose to provide these for obvious reasons</p>
<p>SBC</p> <p>Claims and appeals notices²⁷</p>	<p>Foreign language assistance must be provided if 10% or more of the residents in a county where the material is delivered are only literate in the same non-English language</p>	<p>The material must include a notice in the applicable foreign language(s) that assistance is available</p> <p>Written translations must be provided upon request (unlike the rule for SPDs, SMMs, and SARs)</p>

²⁷ This includes the claims and appeal notices for group health plans and disability plans. These notices are event specific and are not otherwise addressed within this Guide.

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Notice or Disclosure	When Foreign Language Requirement Applies	Foreign Language Requirement
	<p>This is maintained as the Culturally and Linguistically Appropriate Services (CLAS) County Data, and the most recent data is available here: CLAS County Data</p> <p>Currently, the CLAS County Data standard only requires foreign language assistance is Spanish, Chinese, Tagalog, and Navajo in certain counties (Spanish is overwhelmingly the most prevalent)</p>	<p>SBC templates and related material in English, Spanish, Chinese, Tagalog, and Navajo are available on the CMS CCIIO Website.</p>
<p>FMLA</p>	<p>If an employer’s workforce consists of a significant number of employees who are not literate in English, the FMLA regulations require the employer to provide the General Notice (the FMLA model poster contents) in a language in which the employees are literate. This suggests an employer may have to support multiple languages.</p> <p>This approach also applies to the FMLA Notice of Eligibility and Rights & Responsibilities form, but it does not appear to apply to any other FMLA form.</p>	<p>The U.S. Department of Labor maintains a version of the General Notice in Spanish. Interestingly, it does not maintain a Spanish version of the FMLA Notice of Eligibility and Rights & Responsibilities form.</p>
<p>ACA Section 1557 Notice of Nondiscrimination</p>	<p>Foreign language assistance requirements apply to all entities required to provide this notice</p>	<p>The nondiscrimination notice must include a notice of the availability of foreign language assistance in each of the top 15 languages spoken by individuals in that state to help those with limited English proficiency understand their rights</p> <p>Sample notices of availability as well as translations of the full nondiscrimination notice in the top 64 languages spoken in the U.S. are available at HHS Civil Rights -- Section 1557 Notices</p>

There are no explicit foreign language requirements for the other notices and disclosures discussed in this Guide, although employers may choose to provide foreign language assistance based on the needs of their employee populations. For convenience, the U.S. Department of Labor maintains translation of many model notices on its website under [Model Notices and Disclosures](#).

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Glossary of Legal Acronyms

ACA - Affordable Care Act

ADA - Americans with Disabilities Act

CHIP - Children's Health Insurance Program

COBRA - Consolidated Omnibus Budget Reconciliation Act

ERISA - Employee Retirement Income Security Act

FMLA - Family Medical Leave Act

HIPAA - Health Insurance Portability and Accountability Act

NMHPA - Newborns' and Mothers' Health Protection Act

NMSN – National Medical Support Notice

QMCSO – Qualified Medical Child Support Order

PHSA – Public Health Services Act

USERRA - Uniformed Services Employment and Reemployment Rights Act

WHCRA - Women's Health and Cancer Rights Act

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