

DISCLOSURE OF EXCHANGE NOTICE

As the employer, you must disclose the Exchange Notice (“Notice”) to all employees – part-time, full-time, including employees eligible for benefits and those that are not currently eligible.

You must use measures reasonably calculated to ensure actual receipt of the materials. Such information must be sent by a method or methods of delivery likely to result in full distribution. This may be accomplished, in some cases, by electronic disclosure.

Please review the following rules prior to determining how you will distribute the Exchange Notice to your employees.

Acceptable Non-Electronic Distribution Methods

The Exchange Notice may be distributed in a number of ways in a non-electronic method. One of these methods must be used if you are not permitted to issue the materials in an electronic format to an employee as described below.

Examples:

In hand delivery: In-hand delivery to an employee at his or her worksite is acceptable. However, in no case is it acceptable merely to place copies of the Notice in a location frequented by employees.

By Mail: The Notice distributed through the mail may be sent by first, second, or third-class mail. However, distribution by second or third-class mail is acceptable only if return and forwarding postage is guaranteed and address correction is requested. Any Notice sent by second or third-class mail which is returned with an address correction shall be sent again by first-class mail or personally delivered to the employee at his or her worksite.

Upon Request of Participant: If the Notice is requested by the employee in writing, the Notice must be mailed to an address provided by the requesting employee or personally delivered to the employee.

Acceptable Distribution through Electronic Media

You may furnish the Notice through electronic media if certain conditions are met as follows:

- You must take appropriate and necessary measures reasonably calculated to ensure that the system for furnishing the Notice actually results in receipt of transmitted information (e.g., using return-receipt or notice of undelivered electronic mail features).
- You must take measures to assure that the transmission protects the confidentiality of personal information relating to the individual's accounts and benefits (e.g., incorporating into the system measures designed to preclude unauthorized receipt of or access to such information by individuals other than the individual for whom the information is intended).
- The electronically delivered Notice must be prepared and furnished in a manner that is consistent with the style, format and content requirements applicable to the particular document.

- Notice must be provided to each employee, in electronic or non-electronic form, at the time a document is furnished electronically, that apprises the individual of the significance of the document when it is not otherwise reasonably evident as transmitted (e.g., the attached document provides information about obtaining coverage at the Vermont Exchange as well as information about your employer-sponsored plan) and of the right to request and obtain a paper version of such document.
- Upon request, the employee must be furnished a paper version of the electronically furnished documents.

To Employees Who Have Computer Access as Part of Daily Duties:

You may furnish the Notice electronically to an employee who has the ability to effectively access documents furnished in electronic form at any location where the employee is reasonably expected to perform his or her duties and where that employee has access to the electronic information system is an integral part of those duties. The criteria listed above must be followed with regard to such transmission.

To Employees and Others who do not Have Access to Computers as Part of Daily Duties:

You may furnish the Notice electronically to an employee who has affirmatively consented, in electronic or non-electronic form, to receiving the Notice through electronic media and has not withdrawn such consent. The criteria listed above must be followed with regard to such transmission.

In the case of the Notice to be furnished through the Internet or other electronic communication network, the employee must have affirmatively consented or confirmed consent electronically, in a manner that reasonably demonstrates the individual's ability to access information in the electronic form that will be used to provide the information and has provided an address for the receipt of electronically furnished documents.

Prior to obtaining consent to the receipt of information electronically, you must provide, in electronic or non-electronic form, a clear and conspicuous statement indicating:

- (1) The types of documents to which the consent would apply;
- (2) That consent can be withdrawn at any time without charge;
- (3) The procedures for withdrawing consent and for updating the employee's address for receipt of electronically furnished documents or other information;
- (4) The right to request and obtain a paper version of an electronically furnished document, including whether the paper version will be provided free of charge; and
- (5) Any hardware and software requirements for accessing and retaining the documents.

After receiving consent, if a change in hardware or software requirements needed to access or retain electronic documents creates a material risk that the individual will be unable to access or retain electronically furnished documents, you must:

- (1) Provide a statement of the revised hardware or software requirements for access to and retention of electronically furnished documents;
- (2) Give the participant or beneficiary the right to withdraw consent without charge and without the imposition of any condition or consequence that was not disclosed at the time of the initial consent; and
- (3) Obtain additional consent, in the same manner described above, to the receipt of documents through electronic media.