

EXCHANGE NOTIFICATION REQUIREMENT

Under the ACA, an **applicable employer** must provide **each employee...a written notice** concerning:

- (1) the existence of an exchange [here in Vermont, the Vermont Health Connect], including services and contact information;
- (2) the employee's potential eligibility for premium credits and cost-sharing subsidies if the employer plan's share of covered health care expenses is less than 60%; and
- (3) the employee's potential loss of any employer contribution if the employee purchases a plan through an exchange.

Providing Notice to Employees

Employers must provide the Notice to each employee, regardless of plan eligibility or enrollment status, part-time/full-time status, or status as a regular, temporary or seasonal employee. Employers are not required to provide a separate notice to dependents or other individuals who are or may become eligible for coverage under the plan but who are not employees (independent contractors, retirees, etc.).

Timing and Delivery of Notice

Employers are required to provide the Notice to all employees by **October 1, 2013**. For employees hired after October 1, 2013, the employer must provide the Notice within 14 days of the employee's start date.

As with other required communications, the notice must be provided in writing. It may be provided by first-class mail, or by other acceptable means in accordance with the DOL regulations such as at open enrollment, payroll, or a combination of methods as long as all employees are captured and proper records are maintained. Alternatively, it may be provided electronically if the requirements of the Department of Labor's electronic disclosure safe harbor are met. Please see the [disclosure requirements](#) on the VEHI website.

Model Notice

To assist employers with meeting their obligations, the DOL released model notices that employers can use to satisfy the notice requirement. Here is a link to the model for employers who offer a health plan to some or all employees (<http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>). Employers may use this model or they can create a modified version, provided the modified notice meets the content requirements described above. If an employer decides to create its own notice or to modify the model notice provided by the DOL, they must be certain that the newly created/modified notice meets all statutory requirements. **As such, it is advisable that employers seriously consider using the model notices already approved by DOL.**

The model notice for employers who offer a health plan to some or all of their employees requires the employer to input certain information. In general, employers that offer coverage to at least some of their employees will be required to provide:

1. Basic information such as name, address, EIN, and contact information;

2. General information about what class(es) of employees are eligible under the employer's health plan; and
3. A place to check if the coverage provides minimum value and the cost is intended to be affordable.

Please note the plans offered by VEHI meet minimum value. The affordability of the plan will be determined by each individual district. If you intend on offering affordable coverage ([please see VEHI's FAQs](#) for more information about the definition of affordable), we recommend checking the box. If however you are still strategizing and have not determined whether the cost for self-only coverage will be "affordable" for all full-time employees, you may leave this unchecked at this time. Not checking the box will not automatically trigger penalties for employers. This notice is to provide your employees information about the plans that will be offered to them as they prepare for complying with their own individual mandate.

The model notice for employers that offer coverage to at least some employees also includes an **OPTIONAL** section where the employer can provide employee-specific information. The information requested in the optional section corresponds to the information contained in the Employer Coverage Tool that is part of the Vermont Health Connect application for individuals. Information requested in the optional section includes:

- If the employee is currently eligible for coverage;
- If the employee is not currently eligible for coverage, but will be eligible within the next 3 months, the date the employee will be eligible;
- Does the employer offer a plan that provides minimum value;
- The cost for employee only coverage for the lowest cost option – expressed as a dollar amount over a specified time period (e.g., \$x weekly, twice a month);
- A place to indicate if the employer expects to change the plan for the next plan year including if the employer will stop offering health coverage, will start offering health coverage, or will change the premium. If the premium will change, the employee contribution for employee coverage for the lowest cost option should be included; and
- Finally, the date of the expected plan change, if applicable.

Completing page 3 is at the discretion of the employer. In order to streamline the process and minimize the administrative burden, employers may reasonably decide not to provide this information. The purpose of Sections 13 through 16 is to assist employees if they decide to purchase health insurance coverage through the Vermont Health Connect. If the employer chooses not to complete page 3 the employer may consider removing the last sentence on page 2, which states: "Here's the employer information you'll enter when you visit HealthCare.gov to find out if you can get a tax credit to lower your monthly premiums." Further, if the employer chooses not to provide the information on page 3, it is our recommendation that the employer still provide page 3 to the employee.

It is understandable that some employers do not know all of the answers to the questions in the Notice at this time. The employer may want to include a general statement of its intention to comply with

PPACA and that it is the employer's intent to provide additional information regarding the employer-sponsored plan(s) as soon as administratively feasible.

Notification to current employees can take place any time between now and October 1, 2013 and can be included in other mailings or communications. Remember to provide the notification to all new employees within 14 days of their start date.

As always, if you have any questions please contact Laura or Mark.