

Part D Notice Electronic Distribution Requirements

The Disclosure Notice must be provided to all Part D eligible individuals who are covered under, or who apply for, the employer's prescription drug coverage. If distribution of the Medicare Notice will be done electronically, the following requirements must be met.

For participants and beneficiaries who are covered under a plan or are applying for coverage, the Notice may be provided electronically if:

- Employee and non-employee (e.g. COBRA qualified beneficiaries, employees on FMLA leave, retirees) participants must be notified that the documents are being provided electronically, the significance of the items being provided, and that they may receive a paper copy of the document upon request;
- The Notice is provided in paper form free of charge upon request; and
- You ensure each participant has received the notification by using "return-receipt email," notice of undelivered mail, or by conducting periodic reviews or surveys to confirm receipt. Email receipts should be printed out and filed with the plan's copy of the Notice.

For participants with work-related computer access you must:

- Ensure participants can access the electronic document at their workstation where access to the employer's or plan sponsor's electronic information system is an integral part of their employment duties.

For participants with no work-related computer access, including employees, COBRA Qualified Beneficiaries, employees on FMLA, and retirees, affirmative consent is required:

- The participant must consent electronically to receive the document electronically and provide an email address.
- The participant's consent must be done in a way that demonstrates the participant can access the document via the method of electronic distribution. Prior to giving consent, the participant must be informed of all the following:
 - The type of document that will be provided electronically;
 - That consent can be withdrawn at any time and the procedure for withdrawing consent and/or updating information, such as an email address;
 - The right to request and obtain a paper copy of the document; and
 - The type of hardware and/or software needed to access and retain the electronic document.

An additional safe harbor is available to plan sponsors, in the following circumstances:

- If the employer conducts enrollment or renewal/reenrollment online, Notices may be provided electronically to covered participants and beneficiaries in connection with their enrollment.
- The employer may make Notices available online for covered participants and beneficiaries who request a copy of the Notice online.

In either case, the individual must have the option to receive a paper copy upon request.