2015 ERISA[1] Welfare Plan Automatic Participant Disclosures Checklist[2]

Item/Description	Initial Disclosure Requirement(s)	Annual (or Other Periodic) Disclosure Requirement(s)
Summary Plan Description A summary plan description (SPD) informs participants about their benefits, rights, and obligations under the plan and describes how the plan operates. The Department of Labor prescribes an extensive list of contents that must be included in an SPD. Changes to the SPD are communicated to participants either through a summary of material modifications (SMM) or the issuance of an updated SPD. Among other contents required to appear in the SPD, the following must also be included: • Group health plans providing coverage for maternity or newborn infant care must include a description of the requirements for a hospital length of stay in connection with childbirth under federal or state law, as applicable (model language is provided at http://www.dol.gov/ebsa/pdf/cagappc.pdf (on page 148). • See **Wellness Program Disclosure** requirement below. • See **Patient Protection Notice** requirement below. • See **Notice of Grandfathered Health Plan Status** requirement below. • See **Notice of Waiver from Annual Limit Requirement** below. *Note that the inclusion of many of the other participant disclosures described in this checklist in the SPD will satisfy the applicable disclosure requirements, so long as the SPD is distributed to all required recipients by the applicable deadline.*	Provide current SPD (including all SMMs) to each participant **within 90 days** of enrollment in the plan.	Provide SMM to all participants **within 210 days** of the end of the plan year in which the change was adopted. *However, any "material reduction" in covered group health plan services or benefits must be communicated to participants **within 60 days** of the adoption of the change (unless group health plan updates are instead provided at least quarterly).* An SPD must be updated (incorporating all SMMs) and distributed to all participants at least every 5 years (10 years, if no changes were made to the plan during that period).

[1] The Employee Retirement Income Security Act of 1974, as amended.

[2] Other disclosures are required upon the happening of certain events (for example, a COBRA election notice must be provided upon notice of a "qualifying event" causing a loss of coverage under the group health plan), but those are outside the scope of this checklist. The disclosures described in this checklist are limited to the disclosures required to be provided automatically at the time of eligibility/enrollment or periodically thereafter for existing plans. *Note that not all of the items in this checklist will apply to all welfare plans; for example, stand-alone retiree-only plans and certain "excepted benefits" are exempt from many of these requirements; certain small employers may be exempt from COBRA and other requirements; non-federal governmental plans may have opted out of one or more of certain compliance obligations; etc*.

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Summary Annual Report The Summary Annual Report (SAR) summarizes, in narrative form, the Form 5500 Annual Return/Report of Employee Benefit Plan most recently filed for the plan (if applicable).	N/A	Provide to all plan participants within **9 months after the end of the plan year** (or 2 months after the due date of the Form 5500, with an approved extension).
General COBRA[3] Notice The general notice describes to participants and their covered family members their right to purchase a temporary extension of group health plan coverage when coverage is lost because of certain "qualifying events" under COBRA. Model notice: http://www.dol.gov/ebsa/modelgeneralnotice.doc.	Provide to each covered employee and covered spouse* no more than 90 days after group health plan coverage begins. **A single notice may be mailed to the employee's home, addressed to both the employee and spouse if the spouse is known to reside there.*	N/A
HIPAA[4] Notice of Privacy Practices A group health plan (or an insurer) subject to the HIPAA privacy rules must provide this notice describing the uses and disclosures of protected health information (PHI) and the individual's rights and the plan's (or insurer's) duties with respect to that PHI. Model notice: http://www.hhs.gov/ocr/privacy/hipaa/modelnotices.html.	Provide to new enrollees in the plan, at the time of enrollment. (Notice to the covered participant is deemed to provide notice to his or her covered dependents.)	At least **once every 3 years**, notify all participants of the *availability* of the Notice of Privacy Practices and how to obtain it. If there is a material change to the notice: • A group health plan that posts the notice on a website that is maintained for the plan must post the revised notice by the effective date of the material change, and provide the revised notice in the next annual mailing to plan participants (e.g., open enrollment mailing). • A group health plan that does not post the notice on a website must provide the revised notice (or information about the material change and how to obtain the revised notice) to plan participants within 60 days of the effective date of the material change.

[3] The Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
[4] The Health Insurance Portability and Accountability Act of 1996, as amended.

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Notice of Special Enrollment Rights Under HIPAA and CHIPRA[5] This notice describes the rights of certain individual(s) to enroll in a group health plan upon the happening of certain events (and under certain circumstances) such as the loss of other coverage; gaining a new dependent through marriage, birth, adoption, or placement for adoption; or becoming eligible for premium assistance under Medicaid or a Children's Health Insurance Program (CHIP). Model language: http://www.dol.gov/ebsa/pdf/cagappc.pdf (page 138). *It must be revised to include a description of the Medicaid- and CHIP-related special enrollment events.*	Provide notice to each eligible employee at or before the time the employee is initially offered the opportunity to enroll in the group health plan.	N/A
Employer Notice Regarding Premium Assistance Under Medicaid or CHIP This notice informs employees of potential opportunities for premium assistance under a Medicaid or CHIP program of the state in which the employee resides. Model notice: http://www.dol.gov/ebsa/pdf/chipmodelnotice.pdf). *Take care to use most recently updated notice at the time of distribution*.	N/A	**Annually** distribute to each employee (regardless of the employee's medical plan enrollment status) who resides in a state in which medical premium assistance is available under that state's Medicaid or CHIP program* (for a current list of states, refer to the most recent model notice). **For administrative simplicity, an employer may distribute the notice to all employees.*
Women's Health and Cancer Rights Act (WHCRA) Notices This notice describes the requirement under the WHCRA for a group health plan providing mastectomy benefits to also provide coverage for breast reconstruction, prostheses, and physical complications in connection with the mastectomy. Model initial and annual notices: http://www.dol.gov/ebsa/pdf/cagappc.pdf (pages 141 and 142).	Provide notice to each participant upon enrollment in the applicable group health plan.	Provide notice to all participants **annually** (either the enrollment notice or the simplified model annual notice will fulfill this annual WHCRA notice requirement).

[5] The Children's Health Insurance Program Reauthorization Act of 2009, as may be amended from time to time.

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Notice of Creditable or Non-Creditable Prescription Drug Coverage This notice describes to Medicare Part D eligible individuals whether their prescription drug coverage under the plan constitutes "creditable coverage" under Medicare Part D rules, to help them determine whether to enroll in Part D coverage during the annual Medicare Part D election period (October 15 to December 7) or during their initial Medicare Part D enrollment period. Model notices: http://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Model-Notice-Letters.html.	Provide to each Medicare Part D eligible individual* who joins (or seeks to join) the plan during the plan year, prior to his or her prescription drug coverage effective date under the plan. **This includes participants and COBRA continuees, as well as covered spouses and dependents. A single notice may be provided to the individual and his or her spouse and/or dependent(s) covered under the same plan (unless the spouse or dependent is known to reside at a different address).*	Provide to Medicare Part D eligible individuals* **each year, prior to** October 15**, the start of the Medicare annual election period. **If this notice is annually distributed to* all *covered individuals by this due date, the plan is relieved of the requirement to also distribute the notice to covered individuals who first become eligible for Part D coverage during the year.* *** "Prior to" means a notice must have been provided within the last 12 months.*
Summary of Benefits and Coverage This notice is a standardized summary of benefits and coverage (SBC) available under each applicable group health plan benefit package (typically, each of the medical coverage options available under the plan). Template SBC: http://www.dol.gov/ebsa/pdf/correctedSBCtemplate2.pdf. Group health plan guidance for drafting the SBC: http://www.dol.gov/ebsa/pdf/SBCInstructionsGroup.pdf. The uniform glossary for use with the SBC: http://www.dol.gov/ebsa/pdf/SBCUniformGlossary.pdf. Under current guidance, the SBC may be incorporated into the SPD as long as the SBC is intact and prominently displayed at the beginning of the SPD; however, we recommend maintaining the SBC as a standalone document because the SBC distribution requirements are broader than SPD distribution requirements.	Provide to individuals* as part of initial application materials** for enrollment (and again by the first day of coverage, if there are changes to the information in the SBC between application and enrollment). ** This includes participants and COBRA continuees, as well as covered spouses and dependents. A single notice may be provided to the individual and his or her spouse and/or dependent(s) covered under the same plan (unless the spouse or dependent is known to reside at a different address).* *** The SBC is not required at application if provided earlier upon request and there have been no changes to SBC.*	Provide to individuals:* • as part of annual open enrollment materials, or if no annual open enrollment is held, the SBC must be provided at least 30 days prior to the new plan year (with some flexibility for an insured plan for late insurance policy issuance or renewal); • within 90 days of their special enrollment; • at any time upon request, within 7 business days of the request; and • at least 60 days prior to the effective date of any *mid-year* material change to the benefits/coverage described in the SBC. ** This includes participants and COBRA continuees, as well as covered spouses and dependents. A single notice may be provided to the individual and his or her spouse and/or dependent(s) covered under the same plan (unless the spouse or dependent is known to reside at a different address).*

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Patient Protections Notice The Affordable Care Act requires non-grandfathered group health plans to describe to covered individuals their rights to (1) choose a primary care provider or a pediatrician (when the plan requires designation of same), and/or (2) obtain obstetrical or gynecological care without prior authorization. Model notice: http://www.dol.gov/ebsa/patientprotectionmodelnotice.doc (page 150).	Include (if applicable) whenever an SPD or other description of benefits is provided.	
Notice of Grandfathered Health Plan Status The Affordable Care Act requires that any group health plan believed to be a "grandfathered health plan" must disclose its status as a grandfathered health plan. Model notice: http://www.dol.gov/ebsa/grandfatherregmodelnotice.doc (page 149).	Include (if applicable) in any plan materials describing the benefits provided under the plan, including the SPD.	
Employer Exchange Notice The Fair Labor Standards Act (FLSA), as amended by the Affordable Care Act,[6] requires FLSA-subject employers to provide notice to employees of health coverage alternatives available through the Health Insurance Marketplace and some of the consequences of participating. Two model notices: one for employers that offer health plan coverage to some or all employees, http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf; and the other for employer that do not offer health plan coverage, http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf. *Each requires some tailoring.*	Provide to all employees at the time of hiring (or within 14 days of the employee's start date).	N/A

[6] The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010.

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Wellness Program Disclosure—*Availability of Reasonable Alternative Standard* If a group health plan includes a wellness program that rewards an individual for satisfying a standard *related to a health factor (which includes performing or completing an activity related to a health factor)*, a description of the availability of a reasonable alternative standard for obtaining the reward must be provided. The disclosure must include contact information for obtaining the alternative and a statement that recommendations of an individual's personal physician will be accommodated. The applicable regulations (available at http://www.gpo.gov/fdsys/pkg/FR-2013-06-03/pdf/2013-12916.pdf) provide the following sample disclosure language: "Your health plan is committed to helping you achieve your best health. Rewards for participating in a wellness program are available to all employees. If you think you might be unable to meet a standard for a reward under this wellness program, you might qualify for an opportunity to earn the same reward by different means. Contact us at [insert contact information] and we will work with you (and, if you wish, with your doctor) to find a wellness program with the same reward that is right for you in light of your health status."	Include (if applicable) in all plan materials describing the terms of the wellness program.	

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