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Inside This Issue

Employer Mandate to Offer Health Insurance Postponed

Under the Health Care Reform Act, a large employer with at least 50 full-time employees is required to offer minimum essential health coverage to its full-time employees beginning January 1, 2014 (IRC §4980H). If an employee is not offered minimum essential health coverage by the employer, the employee may be eligible for the premium assistance credit (IRC §36B). The penalty for failure by an employer to offer minimum essential health coverage is one-twelfth of $3,000 per full-time employee, per month in which the employee receives a premium tax credit or cost-sharing subsidy. The maximum penalty per employer is capped at an amount equal to the number of full-time employees during the month (regardless of how many employees are receiving a premium tax credit or cost-sharing subsidy) in excess of 30, multiplied by one-twelfth of $2,000.

Example: *ABC Corporation has 100 full-time employees, 20 of whom receive a premium tax credit for all 12 months during the year. ABC Corporation owes a total penalty of $60,000 [20 × (1/12 × $3,000) × 12]. The maximum penalty is capped at $140,000 [(1/12 × $2,000) × (100 – 30) × 12]. Since the calculated penalty of $60,000 for the year is less than the maximum penalty cap, ABC Corporation pays $60,000 for failing to offer 20 of its employees affordable minimum essential health coverage.*

✎ **Author's Comment:** In the above example, ABC Corporation may have failed to offer all 100 employees affordable minimum essential health coverage. However, if only 20 of those 100 employees apply for the premium assistance credit or cost-sharing subsidy through their state exchange, the penalty is based only on those employees who apply. Thus, enforcement of the rules is dependent on insurance reporting requirements under IRC section 6055 and employer reporting requirements under IRC section 6056 so that the government knows which employees have insurance and which employees do not.

Delay in rule. The U.S. Treasury has announced that it is delaying the January 1, 2014 beginning date requirement for employers until January 1, 2015. Over the past several months, the Obama Administration has been engaging in a dialogue with businesses about the new employer and insurer reporting requirements. Many of these businesses already provide health coverage for their employees. The Administration has heard concerns about the complexity of the requirements and the need for more time to implement them effectively.

The additional year before the employer mandate takes affect and insurance reporting requirements begin is designed to meet two goals. First, it will allow the Treasury time to consider ways to simplify the new reporting requirements consistent with the law. Second, it will provide time to adapt health coverage and reporting systems while employers are moving toward making health coverage affordable and accessible for their employees.

The delay in the implementation of the employer mandate does not affect an employee's access to the premium tax credit if the employee otherwise qualifies for the credit.

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Tips for Employers Who Outsource Payroll Duties

Many employers outsource their payroll and related tax duties to third-party payers such as payroll service providers (PSPs) and reporting agents (RAs). Reputable third-party payers can help employers streamline their business operations by collecting and timely depositing payroll taxes on the employer's behalf and filing required payroll tax returns with state and federal authorities.

Though most of these businesses provide very good service, there are, unfortunately, some who do not have their clients' best interests at heart. Over the past few months, a number of these individuals and companies around the country have been prosecuted for stealing funds intended for the payment of payroll taxes.

Like employers who handle their own payroll duties, employers who outsource this function are still legally responsible for any and all payroll taxes due. This includes any federal income taxes withheld as well as both the employer and employee's share of Social Security and Medicare taxes. This is true even if the employer forwards tax amounts to a PSP or RA to make the required deposits or payments. For an overview of how the duties and obligations of agents, reporting agents and payroll service providers differ from one another, see the Third Party Arrangement Chart on page 3.

Here are some steps employers can take to protect themselves from unscrupulous third-party payers.

- Enroll in the Electronic Federal Tax Payment System (EFTPS) and make sure the PSP or RA uses EFTPS to make tax deposits. Available free from the Treasury Department, EFTPS gives employers safe and easy online access to their payment history when deposits are made under their employer identification number, enabling them to monitor whether their third-party payer is properly carrying out their tax deposit responsibilities. It also gives them the option of making any missed deposits themselves, as well as paying other individual and business taxes electronically, either online or by phone. To enroll or for more information, call toll-free 800-555-4477 or visit www.eftps.gov.
- Refrain from substituting the third-party's address for the employer's address. Though employers are allowed to and have the option of making or agreeing to such a change, the IRS recommends that employers continue to use their own address as the address on record with the tax agency. Doing so ensures that the employer will continue to receive bills, notices and other account-related correspondence from the IRS. It also gives employers a way to monitor the third-party payer and easily spot any improper diversion of funds.
- Contact the IRS about any bills or notices and do so as soon as possible. This is especially important if it involves a payment that the employer believes was made or should have been made by a third-party payer. Call the number on the bill, write to the IRS office that sent the bill, contact the IRS business tax hotline at 800-829-4933 or visit a local IRS office. See Receiving a Bill from the IRS on IRS.gov for more information.
- For employers who choose to use a reporting agent, be aware of the special rules that apply to RAs. Among other things, reporting agents are generally required to use EFTPS and file payroll tax returns electronically. They are also required to provide employers with a written statement detailing the employer's responsibilities including a reminder that the employer, not the reporting agent, is still legally required to timely file returns and pay any tax due. This statement must be provided upon entering into a contract with the employer and at least quarterly after that. See Reporting Agents File on IRS.gov for more information.
- Become familiar with the tax due dates that apply to employers.

Third Party Arrangement Chart

There are some differences between a payroll service provider (PSP), reporting agent (RA) authorized under Form 8655, *Reporting Agent Authorization,* and an agent appointed using Form 2678, *Employer/Payer Appointment of Agent.*

A Form 8655 reporting agent provides payroll services for one or more employers, using each client's (employer's) employer identification number (EIN) to file separate returns (generally e-file only) on the client's behalf. A reporting agent may also deposit and pay taxes on the client's behalf.

A Form 2678 agent acts as the employer, assuming liability along with the employer for the employer's Social Security, Medicare and federal income tax withholding responsibilities. An agent appointed under Form 2678 files aggregate returns (e-file or paper) using the agent's EIN.

The chart on page 3 illustrates the most significant differences.

Third-Party Arrangement Chart

Third-Party Arrangement Authority	Form 2678 Agent	Form 8655 Reporting Agent (RA)	Payroll Service Provider (PSP)
Can file certain employment tax returns?	**Yes.** The agent files an aggregate return for all employers/clients, using the *agent's EIN.* Agent can file those returns listed on Form 2678 appointment request.	**Yes.** The RA signs and is generally required to file electronically a separate return for each client, using the employer's client's EIN. The RA must e-file returns listed in Rev. Proc. 2007-38 and shown on the Form 8655 authorization request, if the forms are available for electronic filing. Only forms that are not able to be electronically filed can be filed using paper forms.	**Yes.** The PSP prepares a separate return for each client using the *client's EIN.* After employer/client signs the return, either the client or the PSP may file the return on paper.
Can make deposits and payments for employment taxes reported on certain returns?	**Yes.** The agent deposits and pays for tax liabilities the agent has aggregated and reported using the agent's EIN, according to the agent's deposit requirements. Agent can make deposits and payments for those employment taxes reported on returns listed on Form 2678 appointment request.	**Yes.** The RA deposits and pays tax liabilities on behalf of each client, using the client's separate EIN, according to each client's deposit requirements.	**Yes.** The PSP deposits and pays tax liabilities on behalf of each client, using the client's separate EIN, according to each client's deposit requirements.
Can file Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return?*	**No.*** Clients must file FUTA tax returns using their own EINs.	**Yes.** RA signs and generally files electronically separate returns using client's EIN.	**Yes.** After employer/client signs the return, client or PSP files separate returns using client's EIN.
Has employment tax liability?	**Yes.** Client and agent are both liable for paying the client's employment taxes, filing returns, and making deposits and payments for the taxes reported.	**No.** Employer/Client, not RA, remains liable for ensuring all tax returns are filed timely and all deposits and payments are made timely.	**No.** Employer/Client, not the PSP, remains liable for ensuring all tax returns are filed timely and all deposits and payments are made timely.
Specific guidance in addition to Code, regulations and Circular E.	**Rev. Proc. 70-6;** **Notice 2003-70** (state and local government agents).	**Rev. Proc. 2007-38.**	

*Exceptions may apply for an agent where the employer is a disabled individual or other welfare recipient receiving in-home care through a state or local program. See Rev. Proc. 80-4 and Notice 2003-70 for special instructions.

Innocent Spouse

On August 13, 2013, the IRS released new proposed regulations under the innocent spouse rules. In general, a husband and wife are allowed to file a joint federal income tax return, or choose to file married filing separate. If they choose to file a joint return, each spouse is jointly and severally liable for the tax on the return, including any additions to tax, penalties, and interest. Thus, the IRS is authorized to collect the entire amount of tax plus any additions, penalties, and interest from either spouse, regardless of which spouse is responsible for the income, deductions, credits, or basis that resulted in the liability.

There are several exceptions to the general rule:

- IRC section 6015(b) allows an innocent spouse to elect relief from joint liability if understatements of tax are attributable to erroneous items of the other spouse and the innocent spouse had no reason to know of the understatement and, taking into account all the facts and circumstances, it is inequitable to hold the innocent spouse liable.
- IRC section 6015(c) allows an innocent spouse who is divorced, legally separated, or no longer living with the other spouse to elect liability for his/her share of the tax as if the spouses had originally filed separate tax returns.
- IRC section 6015(f) provides that an innocent spouse may request equitable relief from a tax understatement or underpayment when the innocent spouse does not qualify for relief under the other two provisions and it would be inequitable to hold the innocent spouse liable considering all the facts and circumstances. An example of equitable relief under Section 6015(f) is when there is domestic abuse in the marriage.

IRC section 6015(b) and section 6015(c) both impose a 2-year deadline for a taxpayer to elect innocent spouse relief. Under the 2-year deadline, an innocent spouse has two years from the date of the IRS' first collection activity to make the election. In contrast, IRC section 6015(f) does not contain an explicit deadline to request equitable relief.

In 1998, IRS regulations imposed a 2-year deadline for IRC section 6015(f) equitable relief under the premise that each statutory provision should be consistent (Notice 98-61). In *Lantz,* 132 T.C. 131 (2009), the Tax Court considered the 2-year deadline regulations for IRC section 6015(f) and ruled that the regulations were invalid. On appeal to the 7th Circuit, the Tax Court decision was reversed upholding the validity of the 2-year deadline. In subsequent cases not under the 7th Circuit Court's jurisdiction, the Tax Court continued to find the regulations with a 2-year deadline invalid.

The IRS then reconsidered the 2-year deadline and issued new guidance. The new guidance said the 2-year deadline no longer applies to requests for equitable relief under IRC section 6015(f). Instead, to be considered for equitable relief, a request must be filed with the IRS within the 10-year statute of limitations under IRC section 6502 for collection of tax, or the 2- or 3-year statute of limitations under IRC section 6511 for credit or refund of tax, as applicable to the specific request (Notice 2011-70). Under transitional rules, the 2-year deadline under prior regulations does not apply to any request for equitable relief filed on or after July 25, 2011 or any request filed prior to July 25, 2011 that is still pending with the IRS as of that date.

The new proposed regulations issued on August 13, 2013 reflect the provisions described in Notice 2011-70. The proposed regulations provide the following example to illustrate the rules:

Example: *For 2009, Wendy and Henry filed a joint federal income tax return on April 15, 2010. For 2010, Wendy and Henry filed separate federal income tax returns and Wendy's return showed a $2,000 overpayment. On May 5, 2011, the IRS determined their 2009 joint tax liability was underpaid by $5,000 and thus offset Wendy's $2,000 overpayment from her 2010 separate federal income tax return and applied it towards their 2009 joint tax liability. The IRS offset was the first collection activity the IRS initiated against Wendy to collect the underpaid 2009 joint tax liability. On October 3, 2013, Wendy requests innocent spouse relief under IRC section 6015. Wendy's request is beyond the 2-year limit for requesting innocent spouse relief under IRC section 6015(b) and section 6015(c). For equitable relief under IRC section 6015(f), the statute of limitations for requesting credit or refund of the $2,000 withheld from Wendy's 2010 overpayment has also expired. However, the 10-year statute for collecting the additional $3,000 due has not yet expired. Wendy is allowed to request equitable relief for the $3,000 of unpaid tax from their 2009 joint tax return.*

IRS Issues Guidance on Same-Sex Married Couples

On June 26, 2013, the U.S. Supreme Court ruled that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional because it violates the principles of equal protection (*Windsor,* U.S. Supreme Court, June 26, 2013). The IRS has now issued guidance on the effect of the *Windsor* decision and how the IRS interprets the sections of the Internal Revenue Code that refer to a taxpayer's marital status. Specifically, Revenue Ruling 2013-17 deals with the following issues for federal tax purposes as a result of the *Windsor* decision:

- Whether the terms "spouse," "husband and wife," "husband," and "wife" include an individual married to a person of the same sex, if the individuals are lawfully married, and whether the term marriage includes such a marriage between individuals of the same sex. For this purpose, lawfully married means a legal marriage under any domestic or foreign jurisdiction having the legal authority to sanction marriages (such as a state that legally sanctions same-sex marriages).
- Whether the IRS recognizes a marriage of same-sex individuals validly entered into in a state (or other jurisdiction) whose laws authorize the marriage of two individuals of the same sex even if the state in which they are domiciled does not recognize the validity of same-sex marriages.
- Whether the terms "spouse," "husband and wife," "husband," and "wife" include individuals (whether of the opposite sex or same sex) who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as a marriage under the laws of that state, and whether the term "marriage" includes such relationships.

Recognition of same-sex marriages. There are more than 200 provisions in the Internal Revenue Code and Regulations that include the terms "spouse," "marriage," "husband and wife," "husband," and "wife." The IRS Revenue Ruling says that such terms also apply to individuals lawfully married under state law (or other jurisdiction) to a person of the same sex, and to legal marriages under state law (or other jurisdiction) between individuals of the same sex. It does not matter if a term is gender-neutral or gender specific because the ruling in *Windsor* said any federal law that confers marriage benefits and burdens only on opposite-sex married couples is unconstitutional.

Marital status based on the laws of the state where a marriage is initially established. For federal tax purposes, the IRS Revenue Ruling says that individuals of the same sex are lawfully married under the Internal Revenue Code as long as they were married in a state (or other jurisdiction) whose laws authorize the marriage of two individuals of the same sex, even if they are domiciled in a state that does not recognize the validity of same-sex marriages.

Registered domestic partnerships, civil unions, or other similar formal relationships not denominated as marriage. For federal tax purposes, the IRS Revenue Ruling says the term marriage does not include registered domestic partnerships, civil unions, or other similar formal relationships recognized under state law that are not denominated as a marriage under that state's law, and the terms "spouse," "husband and wife," "husband," and "wife" do not include individuals who have entered into such a formal relationship. This applies regardless of whether individuals who have entered into such relationships are of the opposite sex or the same sex.

Effective date. The IRS Revenue Ruling is effective September 16, 2013. However, affected taxpayers may also rely on this Revenue Ruling for the purpose of filing original returns, amended returns, adjusted returns, or claims for credit or refund for any overpayment of tax resulting from this Revenue Ruling, provided the applicable statute of limitations period has not expired. If such a return is filed based on this Revenue Ruling, all items required to be reported on the return or claim that are affected by the marital status of the taxpayer must be adjusted to be consistent with the marital status reported on the return or claim.

Taxpayers may also rely on this Revenue Ruling retroactively with respect to any employee benefit plans and arrangements for purposes of employer-provided health coverage benefits or other fringe benefits that were provided by the employer and are excludable from income under the Internal Revenue Code based on an individual's marital status.

For example, if employees could elect to make pre-tax salary-reductions for health coverage under an IRC section 125 cafeteria plan, and the employer also elected to provide health coverage for a same-sex spouse on an after-tax basis under a group health plan sponsored by that employer, the affected taxpayer may treat the amounts that were paid by the employee for the coverage of the same-sex spouse on an after-tax basis as pre-tax salary reduction amounts.

✎ **Author's Comment:** There is nothing in the Revenue Ruling that requires an affected taxpayer to amend a previously filed return to pay additional taxes such as a marriage penalty. The election to file amended returns only applies to overpayments of tax. There is also nothing in the Revenue Ruling that says it is optional for a legally married same-sex couple to be treated as married for federal tax purposes. Thus, if a married same-sex couple is subject to a marriage penalty as a result of their legal marriage, they do not have the option to file as if they were not married.

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Requirement to Notify Employees of Health Coverage Options

Introduction

Many provisions of the Patient Protection and Affordable Care Act (Affordable Care Act) that become effective beginning in 2014, are designed to expand access to affordable health coverage. These include provisions for coverage to be offered through a Health Insurance Marketplace (Marketplace), premium tax credits to assist individuals in purchasing such coverage, employer notice to employees of coverage options available through the Marketplace, and other related provisions. The Departments of Labor, Health and Human Services (HHS), and the Treasury are working together to develop coordinated regulations and other administrative guidance to assist stakeholders with implementation of the Affordable Care Act.

Beginning January 1, 2014, individuals and employees of small businesses will have access to affordable coverage through a new competitive private health insurance market—the Health Insurance Marketplace. The Marketplace offers "one-stop shopping" to find and compare private health insurance options. Open enrollment for health insurance coverage through the Marketplace begins October 1, 2013. Section 1512 of the Affordable Care Act creates a new Fair Labor Standards Act (FLSA) section 18B requiring a notice to employees of coverage options available through the Marketplace.

This technical release from the Department of Labor provides temporary guidance regarding the notice requirement under FLSA section 18B and announces the availability of the Model Notice to Employees of Coverage Options. This technical release also provides an updated model election notice for group health plans for purposes of the continuation coverage provisions under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) to include additional information regarding health coverage alternatives offered through the Marketplace.

Background on the Notice to Inform Employees of Coverage Options Under the FLSA

Section 18B of the FLSA, as added by section 1512 of the Affordable Care Act, generally provides that, in accordance with regulations promulgated by the Secretary of Labor, an applicable employer must provide each employee at the time of hiring (or with respect to current employees, not later than March 1, 2013), a written notice:

1) Informing the employee of the existence of the Marketplace (referred to in the statute as the Exchange) including a description of the services provided by the Marketplace, and the manner in which the employee may contact the Marketplace to request assistance,
2) If the employer plan's share of the total allowed costs of benefits provided under the plan is less than 60% of such costs, that the employee may be eligible for a premium tax credit under section 36B of the Internal Revenue Code (the Code) if the employee purchases a qualified health plan through the Marketplace, and
3) If the employee purchases a qualified health plan through the Marketplace, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes.

On January 24, 2013, the Department of Labor (the Department) issued guidance stating the Department's conclusion that the notice requirement under FLSA section 18B will not take effect on March 1, 2013 for several reasons. The Department explained that this notice should be coordinated with HHS's educational efforts and Internal Revenue Service (IRS) guidance on minimum value. The guidance also stated the Department's commitment to a smooth implementation process including providing employers with sufficient time to comply and select an applicability date that ensures that employees receive the information at a meaningful time. The guidance further stated that the Department expects the timing for distribution of notices will be the late summer or fall of 2013, which will coordinate with the open enrollment period for the Marketplace.

The Department is issuing this temporary guidance and model notice in advance of the expected timeframe announced because, since the issuance of the guidance, the Department has received several requests from employers for a model notice on an earlier timeframe so that they may be able to inform their employees now about the upcoming coverage options through the Marketplace. Therefore, employers are permitted to use the model notice and/or rely on this temporary guidance prior to the applicability date stated below to inform their employees earlier.

Guidance for the Notice to Inform Employees of Coverage Options under the FLSA

This section provides temporary guidance on what the Department will consider as compliance with FLSA section 18B, and this guidance will remain in effect until the Department promulgates regulations or other guidance. Future regulations or other guidance on these issues will provide adequate time to comply with any additional or modified requirements.

Employers Subject to the Notice Requirement. The FLSA section 18B requirement to provide a notice to employees of coverage options applies to employers to which the FLSA applies. In general, the FLSA applies to employers that employ one or more employees who are engaged in, or produce goods for, interstate commerce. For most firms, a test of not less than $500,000 in annual dollar volume of business applies. The FLSA also specifically covers the following entities: hospitals; institutions primarily engaged in the care of the sick, the aged, mentally ill, or disabled who reside on the premises; schools for children who are mentally or physically disabled or gifted; preschools, elementary and secondary schools, and institutions of higher education; and federal, state and local government agencies.

The Department's Wage and Hour Division provides guidance relating to the applicability of the FLSA in general including an internet compliance assistance tool to determine applicability of the FLSA. See www.dol.gov/elaws/esa/flsa/scope/screen24.asp.

Providing Notice to Employees. Employers must provide a notice of coverage options to each employee, regardless of plan enrollment status (if applicable) or of part-time or full-time status. 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.

Form and Content of the Notice. Pursuant to the statute, the notice to inform employees of coverage options must include information regarding the existence of a new Marketplace as well as contact information and description of the services provided by a Marketplace. The notice must also inform the employee that the employee may be eligible for a premium tax credit under section 36B of the Code if the employee purchases a qualified health plan through the Marketplace; and a statement informing the employee that if the employee purchases a qualified health plan through the Marketplace, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes.

Timing and Delivery of Notice. Employers are required to provide the notice to each new employee at the time of hiring beginning October 1, 2013. For 2014, the Department will consider a notice to be provided at the time of hiring if the notice is provided within 14 days of an employee's start date.

With respect to employees who are current employees before October 1, 2013, employers are required to provide the notice no later than October 1, 2013. The notice is required to be provided automatically, free of charge.

The notice must be provided in writing in a manner calculated to be understood by the average employee. It may be provided by first-class mail. Alternatively, it may also be provided electronically if certain requirements are met.

Model Notice. To satisfy the content requirements for FLSA section 18B, model language is available on the Department's website www.dol.gov/ebsa/healthreform. There is one model for employers who do not offer a health plan and another model for employers who offer a health plan for some or all employees. Employers may use one of these models, as applicable, or a modified version, provided the notice meets the content requirements described above.

Can an employer be fined for failing to provide employees with notice about the Affordable Care Act's new Health Insurance Marketplace?
Answer: No. If a company is covered by the Fair Labor Standards Act, it should provide a written notice to its employees about the Health Insurance Marketplace by October 1, 2013, but there is no fine or penalty under the law for failing to provide the notice.

Background and Guidance for the Model COBRA Election Notice

In general, under COBRA, an individual who was covered by a group health plan on the day before a qualifying event occurred may be able to elect COBRA continuation coverage upon a qualifying event (such as termination of employment or reduction in hours that causes loss of coverage under the plan). Individuals with such a right are called qualified beneficiaries. A group health plan must provide qualified beneficiaries with an election notice, which describes their rights to continuation coverage and how to make an election. The election notice must be provided to the qualified beneficiaries within 14 days after the plan administrator receives the notice of a qualifying event.

The election notice is required to include:

- The name of the plan and the name, address, and telephone number of the plan's COBRA administrator,
- Identification of the qualifying event,

- Identification of the qualified beneficiaries (by name or by status),
- An explanation of the qualified beneficiaries' right to elect continuation coverage,
- The date coverage will terminate (or has terminated) if continuation coverage is not elected,
- How to elect continuation coverage,
- What will happen if continuation coverage isn't elected or is waived,
- What continuation coverage is available, for how long, and (if it is for less than 36 months), how it can be extended for disability or second qualifying events,
- How continuation coverage might terminate early,
- Premium payment requirements, including due dates and grace periods,
- A statement of the importance of keeping the plan administrator informed of the addresses of qualified beneficiaries, and
- A statement that the election notice does not fully describe COBRA or the plan and that more information is available from the plan administrator and in the plan's summary plan description (SPD).

Some qualified beneficiaries may want to consider and compare health coverage alternatives to COBRA continuation coverage that are available through the Marketplace. Qualified beneficiaries may also be eligible for a premium tax credit (a tax credit to help pay for some or all of the cost of coverage in plans offered through the Marketplace).

The Department of Labor has a model election notice that plans may use to satisfy the requirement to provide the election notice under COBRA. This notice is being revised to help make qualified beneficiaries aware of other coverage options available in the Marketplace. As with the earlier model, in order to use this model election notice properly, the plan administrator must complete it by filling in the blanks with the appropriate plan information. Use of the model election notice, appropriately completed, will be considered by the Department of Labor to be good faith compliance with the election notice content requirements of COBRA.

The model election notice is available in modifiable, electronic form on the Department's website at www.dol.gov/ebsa/cobra.html. A clean copy is available, as is a redline from the prior model notice to help interested stakeholders identify the changes.

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