

# 2018 Benefits Notices for Open Enrollment Chart



The government has yet to fully take action to review ACA compliance with large employers, **but it is coming!** Large employers should make sure they are compliant with reporting all ACA required reports, including the 1094C and 1095C reports.

Why? Because the penalty for NOT correctly filing is \$260 per form, maximum employer penalty is \$3,193,000 per company. If the IRS determines that the company intentionally incorrectly filed 1094C and 1095C reports, the penalties increase to \$520 per form and company maximum penalty of \$6,386,000.

FOR YOUR REFERENCE - BELOW ARE ALL THE THINGS YOU NEED TO DO RE YOUR NEXT OPEN ENROLLMENT.

**WHAT YOU MAY NOT KNOW IS ANOTHER FEDERAL ACT - SBE479 ALLOWS YOU AVOID ALMOST ALL THESE REQUIREMENTS**

AND GIVES YOU THE RIGHT TO JOIN A NATIONAL BUYING COOP /BUYING GROUP THAT CAN REDUCE YOUR GROUP INSURANCE COSTS UP TO 32%

# 2018 Benefits Notices for Open Enrollment Chart

The following list provides an overview of the key required health benefits notices that can be included in an employer's open enrollment materials for the 2018 plan year in order to satisfy its distribution obligations under federal law. While some of the notices must be provided annually (and/or at certain other times outside of the open enrollment period), many employers choose to include these notices in their open enrollment materials for administrative convenience.

The open enrollment period is also a good time for employers to review their plan documents to confirm that any required plan design changes for 2018 (e.g., new contribution limits for health FSAs) are in effect. In general, plan changes should be communicated **either** through an updated Summary Plan Description (SPD) **or** a Summary of Material Modifications (SMM), within certain timeframes.

**Please note** that your company may be subject to additional obligations under your state's laws. Employers are encouraged to contact the [U.S. Department of Labor](#) or a knowledgeable employment law attorney for further guidance.

## Notices for All Group Health Plans

Notice	When Due
<a href="#">Summary of Benefits and Coverage (SBC) &amp; Uniform Glossary</a>	<p>Must be provided at specified times during the enrollment process and upon a participant or beneficiary's request, generally as follows:</p> <ul style="list-style-type: none"> <li>•Prior to initial enrollment in the plan;</li> <li>•Upon <b>renewal</b> of plan coverage;</li> <li>•<b>Within 90 days</b> of special enrollment; and</li> <li>•<b>Within 7 business days</b> following receipt of a request</li> </ul> <p>(The SBC may be provided together with other summary materials such as an SPD, if the SBC information is intact, prominently displayed at the beginning of the materials, and in accordance with the timing requirements for providing an SBC.)</p>
<a href="#">Notice of Special Enrollment Rights</a>	At or before the time an employee is initially offered the opportunity to enroll in the plan.
<a href="#">Health Insurance Exchange Notice</a>	Within 14 days of a new employee's start date.

# 2018 Benefits Notices for Open Enrollment Chart

Notices for Particular Plan Designs	
Notice	When Due
<a href="#">Disclosure of Grandfather Status</a>	In any plan materials for a <b>grandfathered group health plan</b> describing the benefits provided.
<a href="#">Notice of Patient Protections</a>	Whenever a participant in a <b>non-grandfathered group health plan</b> that requires or provides for the <b>designation of a participating primary care provider</b> is furnished a Summary Plan Description (SPD) or other similar description of plan benefits.
<a href="#">Wellness Program Disclosure</a>	In all plan materials that describe the terms of a <b>health-contingent wellness program</b> (both activity-only and outcome-based wellness programs). For outcome-based wellness programs, this notice must also be included in any disclosure that an individual did not satisfy an initial outcome-based standard. If the plan materials merely mention that a program is available, <b>without describing its terms</b> , disclosure is <b>not required</b> .
<a href="#">Notice of Privacy Practices</a>	Health plans meeting the definition of a " <a href="#">covered entity</a> " must provide the notice to new enrollees at the time of enrollment (and at <a href="#">certain other times</a> to covered individuals). <b>Note:</b> Fully insured group health plans that <b>do not create or receive protected health information (PHI)</b> —other than summary health and enrollment information—are <b>not required</b> to develop this notice. Fully insured group health plans that are required to provide the notice must provide it <b>upon request</b> .
<a href="#">Women's Health &amp; Cancer Rights Act (WHCRA) Enrollment Notice</a>	Upon enrollment in a plan that <b>provides coverage for medical and surgical benefits related to a mastectomy</b> (and annually thereafter).
<a href="#">Employer Children's Health Insurance Program (CHIP) Notice</a>	Employers that maintain group health coverage <b>in states that provide for premium assistance through Medicaid or CHIP</b> must provide the notice annually before the start of each plan year. The notice <a href="#">may be provided</a> concurrently with enrollment packets, open enrollment materials, or the SPD, provided that: <ul style="list-style-type: none"> <li>•The materials are provided before the start of each plan year;</li> <li>•The materials are provided to all employees entitled to receive the CHIP notice; and</li> <li>•The notice appears separately and in a manner that ensures employees can reasonably be expected to appreciate its significance.</li> </ul>
<a href="#">Michelle's Law Notice</a>	With any notice regarding a requirement for certification of student status under a plan that <b>bases eligibility for coverage on student status</b> (and that provides dependent coverage <a href="#">beyond age 26</a> ).
<a href="#">Newborns' and Mothers' Health Protection Act Notice</a>	Must be included in the SPD for a plan <b>providing maternity or newborn infant coverage</b> .
<a href="#">Medicare Part D Creditable Coverage Disclosure Notice</a> or <a href="#">Non-Creditable Coverage Disclosure Notice</a>	Employers sponsoring group health plans that <b>include prescription drug coverage</b> must provide the notice to <a href="#">Medicare-eligible individuals</a> : prior to the effective date of enrolling in the prescription drug plan (and upon any change that affects whether the coverage is creditable); prior to the initial enrollment period for the Medicare prescription drug benefit; annually (prior to October 15th); and upon request. An <a href="#">online disclosure</a> to the Centers for Medicare & Medicaid Services (CMS) is also required annually, no later than 60 days from the beginning of a plan year, and at certain <a href="#">other times</a> .

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## Notices for Particular Plan Designs (Continued)

Notice	When Due
<a href="#">ADA Notice Regarding Wellness Program</a>	<p>Must be provided before an employee provides any health information for purposes of a wellness program, with enough time for the employee to decide whether to participate in the program.</p> <p>Note: If employers already provide a notice that informs wellness program participants what information will be collected, who will receive it, how it will be used, and how it will be kept confidential, this notice is generally not required.</p>
<a href="#">ACA Section 1557 Nondiscrimination Notice &amp; Taglines</a>	<p>In general, covered entities (generally those receiving federal financial assistance), are required to post the notice &amp; taglines in: (1) significant publications and communications targeted to beneficiaries, enrollees, applicants, and members of the public (such as open enrollment materials); (2) conspicuous physical locations where an entity interacts with the public; and (3) a conspicuous location on the entity's website, accessible from the homepage of the site. (Content requirements are modified for small-sized significant communications, such as postcards).</p>

## Other Important Benefits Notices

Notice	When Due
<a href="#">General Notice of COBRA Rights</a>	<p>Employers with <b>20 or more employees*</b> that sponsor group health plans must include information regarding the right to continue coverage <b>in the plan's Summary Plan Description (SPD) and Summary of Benefits and Coverage (SBC)</b>, in addition to providing the notice <b>within the first 90 days of coverage</b>.</p>
<a href="#">General FMLA Notice</a>	<p>In addition to posting the notice prominently where it can be readily seen by employees and applicants, covered employers (generally those with <b>50 or more employees**</b>) with FMLA-eligible employees also <b>must include the notice</b> in employee handbooks or other written guidance concerning employee benefits or leave rights—such as open enrollment materials—if such written materials exist; alternatively, copies can be distributed to each new employee upon hiring.</p>

\*Under [COBRA](#), this includes **both** full- and part-time employees. Each part-time employee counts as a fraction of a full-time employee, with the fraction equal to the number of hours the part-time employee worked divided by the hours an employee must work to be considered full time. Companies that are part of a controlled group or which have common ownership interests should contact the U.S. Department of Labor or a knowledgeable attorney for issues related to headcount.

\*\*Private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year are [subject to FMLA](#). An employee must work at a location where the company employs 50 or more employees **within 75 miles** (and meet certain other requirements with respect to time worked) to be eligible for FMLA leave. Any employee whose name appears on the employer's payroll will be considered employed each working day of the calendar week, and must be counted regardless of whether any compensation is received for the week.

**Provided by:**



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