



When to Send the COBRA General Notice

Issue

The COBRA General Notice is one of the first documents that a new group health participant should receive. When must employers send a General Notice?

Solution

Background

The 2004 Final COBRA Regulations provide guidance. The General Notice “shall be furnished to each employee and each employee’s spouse, not later than the earlier of:

- (i) The date that is 90 days after the date on which such individual’s coverage under the plan commences ... or
- (ii) The first date on which the administrator is required ... to furnish the employee, spouse, or dependent child of such employee notice of a qualified beneficiary’s right to elect continuation coverage.”ⁱ

A General Notice must include notice procedures, namely an “explanation of the plan’s requirements regarding *the responsibility of a qualified beneficiary to notify the administrator* ... and a description of the plan’s procedures for providing such notice.”ⁱⁱ These procedures are important. All told, there are five events of which a participant must notify the employer,ⁱⁱⁱ and the time frame for providing these notices is the latter of the event date, the loss of coverage date, the disability award date (if applicable) or the date the participant received the plan’s notification procedures.^{iv} *Failure to send a General Notice results in an open-ended time frame for qualified beneficiaries to provide notice.*

Triggering Events for Sending General Notice

These are the times to send a General Notice:

- When an employee’s coverage commences
- When an employee’s spouse’s coverage commences (if different from when the employee’s coverage commences)
- When there is a material change to the qualified beneficiary notice procedures (e.g., contact information changes due to a new COBRA administrator)
- A new plan commences
- Material changes occur to the General Notice

In addition, if there has been no blanket mailing of the General Notice since 2004, a General Notice should be sent to all participants because of new content requirements. A change in company-specific information only will typically not require a new General Notice. While some employers decide to put the General Notice in the plan’s Summary Plan Description (SPD), a hand-delivered SPD will not satisfy the requirement to send the General Notice to the employee’s spouse.^v The single-notice rule does not apply here.

What is the Plan?

An employer has some discretion as to what constitutes a plan. Most employers will want to consider all health benefits as benefit options that are part of a single plan. The 2001 Final COBRA Regulations make this the default assumption: “all health care benefits ... constitute one group health plan, unless—



- (1) It is clear from the instruments governing ... health care benefits that the benefits are being provided under separate plans; and
- (2) The arrangement or arrangements are operated pursuant to such instruments as separate plans.”^{vi}

This allows an employer to avoid sending multiple General Notices (e.g., one for the group health plan, another for the Health FSA, etc.). Changes in coverage and carriers typically do not entail a change in plan and no new General Notice. The plan name is found on the SPD or Form 5500. A default method for describing the plan is as “Group Health Plan(s) sponsored by _____.”

Examples

- Alice is hired on May 1 and immediately enrolls in a PPO. She enrolls in the Health FSA at the next open enrollment. If the health benefits are considered one plan, the employer’s issuance of the General Notice upon PPO enrollment is sufficient.
- Bea is already covered through her employer’s plan when she marries, adding her spouse. The employer must send another General Notice. However, if Bea later adopts, the employer need not send another General Notice to the adopted child.
- Clear Company terminates all health coverage and implements a new high-deductible health plan (HDHP). This plan is considered a different plan. The employer must send another General Notice to all participants.
- Dearborn, Inc. offers an HMO and HDHP as plan options. During open enrollment, Edna changes from the HMO to the HDHP. A new General Notice is not required.
- Ferber Corp. changes COBRA administrators. The previous General Notice told qualified beneficiaries to contact the prior administrator for certain events. The employer must send another General Notice via blanket mailing.
- The HR manager at Gallatin, LLC cannot recall when the General Notice was last updated. The employer should send another General Notice via blanket mailing.

Explanation

Based on the various times a General Notice must be sent, it is recommended that employers regularly send a current notice to all active participants via a blanket mailing.

For More Information

Infinisource can assist you with blanket mailings of the General Notice and other legally-required notices. We also provide full service COBRA administration. We started providing COBRA administrative services in the same year that COBRA was enacted. Our collective expertise is available to you at 800-300-3838.

ⁱ 29 CFR §2590.606-1(b)(1)

ⁱⁱ 29 CFR §2590.606-1(c)(4)

ⁱⁱⁱ 29 CFR §2590.606-3(a)

^{iv} 29 CFR §2590.606-3(c)

^v 29 CFR §2590.606-1(d)

^{vi} 26 CFR §54.4980B-2, Q/A-6(a)