

## Group Health Plan Reforms -- New Notice Requirements for Immediate Reforms

Set out below is a chart that describes the various notices that are required under government regulations for the group health plan reforms and related requirements that will be in going into effect for plan years beginning on or after September 23, 2010 (*e.g.*, January 1, 2011 for calendar year plans) -- including the special notice requirement for those plans that intend to continue to maintain “grandfathered” status, along with a link to any model notice/language provided by the government.

| <b>NOTICE REQUIREMENTS FOR ALL GROUP HEALTH PLANS</b> |  |   |   |
|---|--|---|---|
| <i>Item</i>   | <i>Description</i>   | <i>Timing/Other Requirements</i>  | <i>Model Notice/Language</i>  |
| <b>Adult Child Coverage</b>                           | All group health plans (“GHPs”) must provide notice of the availability of dependent coverage for children under age 26 to (i) a child whose coverage ended because dependent coverage under the plan ended before age 26, (ii) a child who was not eligible for coverage for the same reason, (iii) a child who otherwise becomes eligible for coverage, OR (iv) the employee-parent of any such child. | ⇒ Parents must be given the opportunity to enroll their adult children for a period of at least 30 days <u>beginning no later than</u> the first day of the plan year in which this requirement goes into effect<br><br>⇒ The notice can be provided and the reenrollment can be done as part of the open enrollment process. | <a href="http://www.dol.gov/ebsa/dependentsmodelnotice.doc">http://www.dol.gov/ebsa/dependentsmodelnotice.doc</a>               |
| <b>Elimination of Lifetime Limits</b>                 | Individuals who previously reached a lifetime limit and are otherwise eligible for the GHP must be provided notice that the lifetime limit no longer applies and that coverage is available.   | ⇒ Affected individuals must be given at least 30 days to re-enroll.<br><br>⇒ The notice can be provided and reenrollment can be done as part of the open enrollment process.  | <a href="http://www.dol.gov/ebsa/lifetime_limits_model_notice.doc">http://www.dol.gov/ebsa/lifetime_limits_model_notice.doc</a> |

*As Updated 10/12/2010*



### NOTICE REQUIREMENTS FOR ALL GROUP HEALTH PLANS (Cont'd)

|  |  |   |   |
|--|--|---|---|
| <b>Coverage Rescissions</b>              | In general, coverage of an otherwise eligible individual can be retroactively revoked <u>only</u> in the event of fraud or a misrepresentation of a material fact. To rescind coverage retroactively, the GHP must provide the affected individual notice of the rescission. | At least 30 days advance written notice of the proposed rescission must be given.   | None  |
| <b>Early Retiree Reinsurance Program</b> | Any employer participating in the early retiree reinsurance program (“ERRP”) must notify plan participants that the employer (i) participates in the program and (ii) may use ERRP reimbursements to reduce participant premiums, copays, deductibles and other plan costs   | ⇒ The notice must be provided to plan participants within a reasonable period after the employer receives its first reimbursement under the program<br>⇒ The notice must also be provided to new participants as they enter the plan. | <a href="http://www.errp.gov/download/Notice_to_Plan_Participants.pdf">http://www.errp.gov/download/Notice_to_Plan_Participants.pdf</a> |

### SPECIAL NOTICE REQUIREMENTS FOR GRANDFATHERED GROUP HEALTH PLANS

| <i>Item</i>                                 | <i>Description</i>   | <i>Timing/Other Requirements</i>   | <i>Model Notice/Language</i>  |
|---|--|--|---|
| <b>Retention of “Grand-fathered” Status</b> | To maintain grandfathered status, a GHP must include a statement in participant materials that indicates that the plan is grandfathered and provide plan administrator and government contact information for participant questions. | The required statement must be provided in any “plan materials” that describe plan benefits (such as open enrollment materials, the summary plan description and any summaries of plan changes). | <a href="http://www.dol.gov/ebsa/grandfatherregmodelnotice.doc">http://www.dol.gov/ebsa/grandfatherregmodelnotice.doc</a> |

## NOTICE REQUIREMENTS FOR NONGRANDFATHERED GROUP HEALTH PLANS

| <i>Item</i>  | <i>Description</i>   | <i>Timing/Other Requirements</i>  | <i>Model Notice/Language</i>   |
|--|--|---|--|
| <p><b><i>New Internal &amp; External Claims Review Process</i></b></p> | <p>GHPs must provide notice of an adverse benefit determination to claimants in both the internal and external claims process.</p> <p><i>[NOTE -- The government has delayed the compliance deadline with the new internal reforms to July 1, 2011 (for GHPs subject to those requirements before that date).]</i></p> | <ul style="list-style-type: none"> <li>⇒ In general, adverse decisions in the internal process generally must comply with the ERISA claims rules (as modified by the new law).</li> <li>⇒ Adverse determinations for claims subject to state external review process must comply with state law and for those subject to the Federal external review process, the Federal standards</li> <li>⇒ This notice must, among other things, be provided in English, as well as an applicable non-English language if the number of plan participants who are literate in the non-English language reaches a certain threshold. The English notice must also include a statement (in the applicable non-English language) that the notice is available in such non-English language.</li> </ul> | <ul style="list-style-type: none"> <li>⇒ <a href="http://www.dol.gov/ebsa/IA/BDModelNotice2.doc">http://www.dol.gov/ebsa/IA/BDModelNotice2.doc</a> (for initial internal adverse determination)</li> <li>⇒ <a href="http://www.dol.gov/ebsa/IA/BDModelNotice1.doc">http://www.dol.gov/ebsa/IA/BDModelNotice1.doc</a> (for final adverse - internal process)</li> <li>⇒ <a href="http://www.dol.gov/ebsa/IA/BDModelNotice3.doc">http://www.dol.gov/ebsa/IA/BDModelNotice3.doc</a> (for final adverse - external Federal process)</li> </ul> |

### NOTICE REQUIREMENTS FOR NONGRANDFATHERED GROUP HEALTH PLANS (Cont'd)

| <i>Item</i>   | <i>Description</i>   | <i>Timing/Other Requirements</i>   | <i>Model Language (Link)</i>  |
|---|--|--|---|
| <b>Designation of Primary Care Provider</b>                 | GHPs that require or allow participants to designate a primary care provider must provide notice that any available participating primary care physician may be designated.  | This notice can be provided in the summary plan description or enrollment package. | <a href="http://www.dol.gov/ebsa/patientprotectionmodelnotice.doc">http://www.dol.gov/ebsa/patientprotectionmodelnotice.doc</a> |
| <b>Designation of Pediatrician as Primary Care Provider</b> | GHPs that require or allow participants to designate a primary care provider for children must provide notice that any available participating pediatrician or primary care physician may be designated.   | <i>(Same as above)</i>   | <a href="http://www.dol.gov/ebsa/patientprotectionmodelnotice.doc">http://www.dol.gov/ebsa/patientprotectionmodelnotice.doc</a> |
| <b>OB/GYN Access</b>  | GHPs that provide coverage for obstetric or gynecological care and require (or permit) participants to designate a primary care provider must provide notice that referrals from the primary care physician for obstetrical or gynecological care are <u>not</u> required. | <i>(Same as above)</i>   | <a href="http://www.dol.gov/ebsa/patientprotectionmodelnotice.doc">http://www.dol.gov/ebsa/patientprotectionmodelnotice.doc</a> |



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