

## **Notice of Exchange Required for Distribution by October 1, 2013**

The Affordable Care Act created a new way for individuals to purchase health insurance. This new “Health Insurance Marketplace” will begin accepting applications beginning October 1, 2013 and provide coverage for enrollees beginning January 1, 2014.

### ***The Affordable Care Act Mandates Employers distribute the Notice of Exchange by October 1, 2013.***

Employees must be notified of this health coverage option. Because the Exchange Notice mandate is under the Labor Management Relations Act, it applies to almost all employers subject to the Fair Labor Standards Act (FLSA). [Click here](#) to see if your organization is subject to FLSA. Even though the Affordable Care Act’s Shared Responsibility (“Pay or Play”) and IRS reporting requirements for organizations with 50 or more employees has been postponed, the ACA’s requirement for the Notice of Exchange rule has **not** been delayed. The Department of Labor has issued a model Notice of Exchange that will assist employers in providing all required information.

The Notice of Exchange must be provided to all current employees, without exception, no later than October 1, 2013. This includes full-time, part-time, and seasonal employees, whether or not they are eligible for benefits.

The Notice of Exchange does not need to be provided to Dependents, Retirees, COBRA enrolled members, or to those who are not true employees (such as independent contractors).

Beginning October 1, 2013, employers are required to provide the Notice of Exchange to each new employee at the time of hire. The Department of Labor, at least for now, will consider a Notice of Exchange to have been provided at the time of hiring if the Notice is provided within 14 days of an employee’s start date.

The Notice of Exchange can be delivered to employees by first class mail or by in-hand delivery at the workplace. Electronic distribution is permitted if in conformance with the Department of Labor’s electronic disclosure requirements.

There is no requirement to obtain an employee’s signature; however, an employer may want to track delivery and receipt of the Notice.

The Model Notice of Exchange is three pages long and can be downloaded from the Department of Labor’s website at: [http://www.dol.gov/ebsa/consumer\\_info\\_health.html](http://www.dol.gov/ebsa/consumer_info_health.html).

The following pages include a discussion of the model Notice of Exchange and examples of how it should be completed.



# New Health Insurance Marketplace Coverage Options and Your Health Coverage

Form Approved  
OMB No. 1210-0149  
(expires 11-30-2013)

## PART A: General Information

When key parts of the health care law take effect in 2014, there will be a new way to buy health insurance: the Health Insurance Marketplace. To assist you as you evaluate options for you and your family, this notice provides some basic information about the new Marketplace and employment-based health coverage offered by your employer.

### What is the Health Insurance Marketplace?

The Marketplace is designed to help you find health insurance that meets your needs and fits your budget. The Marketplace offers "one-stop shopping" to find and compare private health insurance options. You may also be eligible for a new kind of tax credit that lowers your monthly premium right away. Open enrollment for health insurance coverage through the Marketplace begins in October 2013 for coverage starting as early as January 1, 2014.

### Can I Save Money on my Health Insurance Premiums in the Marketplace?

You may qualify to save money and lower your monthly premium, but only if your employer does not offer coverage, or offers coverage that doesn't meet certain standards. The savings on your premium that you're eligible for depends on your household income.

### Does Employer Health Coverage Affect Eligibility for Premium Savings through the Marketplace?

Yes. If you have an offer of health coverage from your employer that meets certain standards, you will not be eligible for a tax credit through the Marketplace and may wish to enroll in your employer's health plan. However, you may be eligible for a tax credit that lowers your monthly premium, or a reduction in certain cost-sharing if your employer does not offer coverage to you at all or does not offer coverage that meets certain standards. If the cost of a plan from your employer that would cover you (and not any other members of your family) is more than 9.5% of your household income for the year, or if the coverage your employer provides does not meet the "minimum value" standard set by the Affordable Care Act, you may be eligible for a tax credit.<sup>1</sup>

**Note:** If you purchase a health plan through the Marketplace instead of accepting health coverage offered by your employer, then you may lose the employer contribution (if any) to the employer-offered coverage. Also, this employer contribution—as well as your employee contribution to employer-offered coverage—is often excluded from income for Federal and State income tax purposes. Your payments for coverage through the Marketplace are made on an after-tax basis.

### How Can I Get More Information?

For more information about your coverage offered by your employer, please check your summary plan description or contact \_\_\_\_\_.

The Marketplace can help you evaluate your coverage options, including your eligibility for coverage through the Marketplace and its cost. Please visit [HealthCare.gov](http://HealthCare.gov) for more information, including an online application for health insurance coverage and contact information for a Health Insurance Marketplace in your area.

Page 1 of the Notice includes General Information for the employee. The only section that needs to be completed by the Employer is the line at the bottom of the page, under "How Can I Get More Information?" In this area, provide the name or department that your employees should contact for information on employer-offered medical plans.

Please note: governmental plans and church plans are not subject to ERISA, and therefore may not have an SPD (Summary Plan Document). These employers may want to remove the language referencing the SPD. In either case, the contact information line should still be completed.

summary plan description

## PART B: Information About Health Coverage Offered by Your Employer

This section contains information about any health coverage offered by your employer. If you decide to complete an application for coverage in the Marketplace, you will be asked to provide this information. This information is numbered to correspond to the Marketplace application.

3. Employer name		4. Employer Identification Number (EIN)	
5. Employer address		6. Employer phone number	
7. City	8. State	9. ZIP code	
10. Who can we contact about employee health coverage at this job?			
11. Phone number (if different from above)		12. Email address	

Here is some basic information about health coverage offered by this employer:

- As your employer, we offer a health plan to:

All employees.

- Some employees. Eligible employees are:

Represented employees covered by a collective bargaining agreement;  
Non-represented, permanent full-time employees working a minimum of 37 hours per week.

- With respect to dependents:

- We do offer coverage. Eligible dependents are:

Sample Language 1:

Employee's lawful spouse;  
Any child of the Employee less than 26 years of age; as defined by the Health Plan;  
Any child of the Employee 26 or more years old and primarily supported by employee and incapable of self-sustaining employment by reason of mental or physical handicap.

Sample Language 2:

Employee's lawful spouse;  
Any child of the Employee less than 26 years of age; a child includes a legally adopted child or a child placed in anticipation of adoption, a foster child, a child by virtue of legal guardianship, or a child who must be provided medical coverage through a Qualified Medical Child Support Order (QMSCO). It also includes a stepchild who lives with the employee; Any child of the Employee 26 or more years old and primarily supported by employee and incapable of self-sustaining employment by reason of mental or physical handicap.

The top of Page 2 is considered to be self-explanatory. Please note that the information is numbered, but does not begin with number one. The numbered information on this form is designed to match the numbered lines of the Application for Insurance available in the Marketplace.

This Notice must be delivered to ALL employees, regardless of full-time, part-time, or seasonal status. In most cases, not all of these employees are offered coverage.

The next two sections are very important, as they describe precisely which employees and dependents are eligible for coverage. The displayed sample language is for reference only and should be altered to match your specific eligibility requirements. Considerations include whether elected or appointed officials are eligible.

Similarly, assuming that coverage is offered to dependents, the form provides space to define dependent eligibility. Take time to ensure that this section accurately reflects the requirements currently in place. This definition can be spelled out in as much detail as you are comfortable. Two samples of this language have been provided from which you can build your specific definition.

The last item on page 2 is the statement that the coverage meets the minimum value standard. **You will want to refer to the [Minimum Value Calculator](#) to determine if your lowest cost plan meets the Minimum Value standard.** Further, it is believed that this plan is *intended* to be affordable, based on employee wages.

As a result, it will be appropriate to check the final box on the form.

This box will be checked, even on the forms distributed to non-eligible employees.

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Here is some basic information about health coverage offered by this employer:

- As your employer, we offer a health plan to:

All employees.

Some employees. Eligible employees are:

Represented employees covered by a collective bargaining agreement;  
Non-represented, permanent full-time employees working a minimum of 37 hours per week.

- With respect to dependents:

We do offer coverage. Eligible dependents are:

Employee's lawful spouse;  
Any child of the Employee less than 26 years of age; as defined by the health Plan;  
Any child of the Employee 26 or more years old and primarily supported by employee and incapable of self-sustaining employment by reason of mental or physical handicap.

If checked, this coverage meets the minimum value standard, and the cost of this coverage to you is intended to be affordable, based on employee wages.

\*\* Even if your employer intends your coverage to be affordable, you may still be eligible for a premium discount through the Marketplace. The Marketplace will use your household income, along with other factors, to determine whether you may be eligible for a premium discount. If, for example, your wages vary from week to week (perhaps you are an hourly employee or you work on a commission basis), if you are newly employed mid-year, or if you have other income losses, you may still qualify for a premium discount.

If you decide to shop for coverage in the Marketplace, [HealthCare.gov](https://www.healthcare.gov) will guide you through the process. Here's the employer information you'll enter when you visit [HealthCare.gov](https://www.healthcare.gov) to find out if you can get a tax credit to lower your monthly premiums.

The third and final page of the Notice is considered optional. We feel that most groups will NOT elect to complete this optional page because it requires that each employee be evaluated.

The information below corresponds to the Marketplace Employer Coverage Tool. Completing this section is optional for employers, but will help ensure employees understand their coverage choices.

**13. Is the employee currently eligible for coverage offered by this employer, or will the employee be eligible in the next 3 months?**

**Yes** (Continue)

13a. If the employee is not eligible today, including as a result of a waiting or probationary period, when is the employee eligible for coverage? \_\_\_\_\_ (mm/dd/yyyy) (Continue)

**No** (STOP and return this form to employee)

**14. Does the employer offer a health plan that meets the minimum value standard\*?**

Yes (Go to question 15)  No (STOP and return form to employee)

**15. For the lowest-cost plan that meets the minimum value standard\* offered **only to the employee** (don't include family plans): If the employer has wellness programs, provide the premium that the employee would pay if he/ she received the maximum discount for any tobacco cessation programs, and didn't receive any other discounts based on wellness programs.**

a. How much would the employee have to pay in premiums for this plan? \$

b. How often?  Weekly  Every 2 weeks  Twice a month  Monthly  Quarterly  Yearly

If the plan year will end soon and you know that the health plans offered will change, go to question 16. If you don't know, STOP and return form to employee.

**16. What change will the employer make for the new plan year?**

Employer won't offer health coverage

Employer will start offering health coverage to employees or change the premium for the lowest-cost plan available only to the employee that meets the minimum value standard.\* (Premium should reflect the discount for wellness programs. See question 15.)

a. How much will the employee have to pay in premiums for that plan? \$

b. How often?  Weekly  Every 2 weeks  Twice a month  Monthly  Quarterly  Yearly

Date of change (mm/dd/yyyy):