



# DOL Provides Temporary Guidance, Model Notices on Marketplace Options and COBRA

## Client Advisories

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The U.S. Department of Labor (“DOL”) recently released guidance designed to assist employers in meeting their responsibilities to provide Notice of certain information under the Affordable Care Act and a new section of the Fair Labor Standards Act (“FLSA”).

Who Must Provide the Notice? The Affordable Care Act requires employers subject to the FLSA to provide a Notice to each employee regarding coverage options available through the Health Insurance Marketplace. The FLSA generally applies to employers involved in interstate commerce with at least \$500,000 in annual sales or receipts, as well as hospitals, schools, and governmental entities.\*

When must the Notices be Provided? Beginning October 1, 2013, the Notice must be provided to all employees at the time of hiring. Current employees also must be provided the Notice not later than October 1, 2013.

What Information Does the Notice Provide? The Notice generally tells employees about the Marketplace, including a description of the services offered through the Marketplace and where to go for additional information. It also tells employees about their potential eligibility for a tax credit if their employer-provided health plan does not cover at least 60% of the cost of coverage. Additionally, the Notice briefly explains the different tax treatment between employer-provided plans and the Marketplace plans. You can find a copy of the model Notices at [www.dol.gov/ebsa/healthreform/](http://www.dol.gov/ebsa/healthreform/). Be aware that the DOL form is part of a temporary procedure and could change in the future, but you may rely on the DOL form for Notices you provide prior to the October 1, 2013 deadline.

The DOL model Notice is designed for employers to use in meeting the new Notice requirements under the FLSA. Employers must fill in their own contact information for information on any employer-provided health plan. The employer must also provide the information requested in Part B of the Model Notice.

How Can Employers Provide the Notice? The Notice must be provided in writing, automatically, and free of charge to each employee (not just full time employees or employees eligible for coverage). First-class mail is an acceptable method of delivery. DOL also has procedures under which an employer may provide certain

information electronically. If you would like to provide this Notice electronically but do not already know if you comply with DOL's rules on electronic communications, call us for further information on these rules.

What Does the New COBRA Notice Provide? The DOL has also provided a new model COBRA Notice. This model contains references to the Marketplace, tax credits for some individuals, special enrollment rules, and how to get more information on the Exchanges.

These new Notices are one of many changes employers and employees will experience due to implementation of the Affordable Care Act. In order to help employers prepare, Archer & will present a series of seminars featuring experts who will give the latest legal and practical advice on this groundbreaking legislation. Visit the firm's [Events Page](#) for more information and to register.

If you have questions about or would like to discuss how the law will affect you and your employees, please contact any member of Archer's [Employee Benefits Practice Group](#) or [Labor and Employment Department](#) in Philadelphia at (215) 963-3300, in Haddonfield, N.J., at (856) 795-2121, or in Hackensack, N.J., at (201) 342-6000.

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\*For assistance in determining whether your organization is subject to FLSA, see the [Department of Labor's web site](#) or call us.

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