

# 2022 Benefits Notices for Open Enrollment

The following chart provides an overview of the key required health benefits notices that can be included in an employer's open enrollment materials for the 2022 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 2022 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 benefits notices requirements under your state's laws. Employers are encouraged to contact the [U.S. Department of Labor](https://www.dhs.gov/eisapost/department-of-labor) or a knowledgeable employment law attorney for further guidance.

## Notices for All Group Health Plans

Notice	When Due
<a href="#">Summary Plan Description (SPD)</a>	<p>Must be provided within 90 days after an employee becomes a plan participant. In addition, any changes that are made to the plan should be reflected in an updated SPD or an SMM.</p> <p>An updated SPD must be furnished every 5 years if changes are made to SPD information or the plan is amended (otherwise, it must be furnished every 10 years).</p>
<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 request, generally as follows:</p> <ul style="list-style-type: none"><li>• Prior to initial enrollment in the plan;</li><li>• Upon renewal of plan coverage;</li><li>• Within <b>90 days</b> of special enrollment; and</li><li>• Within <b>7 business days</b> following receipt of a request.</li></ul>
<a href="#">Notice of Special Enrollment Rights</a>	<p>At or before the time an employee is initially offered the opportunity to enroll.</p>

## Notices for Particular Plan Designs

Notice	When Due
<a href="#">Disclosure of Grandfather Status</a>	<p>In any plan materials for a <b>grandfathered group health plan</b> describing the benefits provided.</p>
<a href="#">Notice of Patient Protections</a>	<p>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 an SPD or other similar description of plan benefits.</p>
<a href="#">Wellness Program Disclosures</a>	<p><b>HIPAA Wellness Program Notice:</b> In all plan materials that describe the terms of a <b>health-contingent wellness program</b> (that is, a program that requires individuals to satisfy a standard related to a health factor in order to obtain a reward). If the plan materials merely mention that a program is available, <b>without describing its terms</b>, disclosure is <b>not required</b>.</p> <p><b>ADA Wellness Program Notice:</b> Employers with <b>15 or more employees</b> that sponsor wellness programs that <b>collect health information or involve medical exams</b> must provide this notice before an employee provides any health information, with enough time for the employee to decide whether to participate.</p>
<a href="#">Notice of Privacy Practices</a>	<p>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).</p> <p><b>Note:</b> <i>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 do so <b>upon request</b>.</i></p>
<a href="#">Women's Health &amp; Cancer Rights Act (WHCRA) Enrollment Notice</a>	<p>Upon enrollment in a plan that <b>provides coverage for medical and surgical benefits related to a mastectomy</b> (and annually thereafter).</p>
<a href="#">Employer Children's Health Insurance Program (CHIP)</a>	<p>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 may be provided concurrently with enrollment packets, open enrollment materials, or the SPD,</p>

<a href="#">Notice</a>	<p>provided that:</p> <ol style="list-style-type: none"> <li>1. The materials are provided before the start of each plan year;</li> <li>2. The materials are provided to all employees entitled to receive the CHIP notice; and</li> <li>3. The notice appears separately and in a manner that ensures employees can reasonably be expected to appreciate its significance.</li> </ol>
<a href="#">Michelle's Law Notice</a>	<p>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 beyond age 26).</p>
<a href="#">Newborns' and Mothers' Health Protection Act Notice</a>	<p>Must be included in the SPD for a plan <b>providing maternity or newborn infant coverage</b>.</p>
<a href="#">Medicare Part D Creditable Coverage Disclosure Notice</a> or <a href="#">Non-Creditable Coverage Disclosure Notice</a>	<p>Employers sponsoring group health plans that <b>include prescription drug coverage</b> must provide the notice to <a href="#">Medicare-eligible individuals</a> annually prior to Oct. 15, upon request, and at <a href="#">various other times</a> as required under the law.</p>

## Notices for Tax-Favored Accounts

Notice	When Due
<a href="#">Qualified Small Employer HRA (QSEHRA) Notice</a>	<p>Employers that had <b>fewer than 50 full-time employees</b> in the preceding calendar year, that <b>do not offer a group health plan</b>, and that fund a QSEHRA must generally provide the notice no later than 90 days before the beginning of the year in which the QSEHRA is funded.</p>
<a href="#">Individual Coverage HRA Notice</a>	<p>Employers must generally provide the notice to eligible employees that are <b>not offered traditional group health plan</b> coverage no later than 90 days before the beginning of the Individual Coverage HRA plan year.</p>

## Other Important Benefits Notices

Notice	When Due
<a href="#">General Notice of COBRA Rights</a>	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 SPD and SBC</b> , in addition to providing the notice <b>within the first 90 days of coverage</b> .
<a href="#">General FMLA Notice</a>	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 new employee upon hire.

\* 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.