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Attention Employers: Have You Sent Out Your ACA Notice?

As part of the Patient Protection and Affordable Care Act (ACA), employers are required to provide a notice to workers on or before October 1, 2013, informing them about the new Health Insurance Marketplace. All full- and part-time employees must receive the notice. Employees hired after October 1 must receive the notice within 14 days of their start date.

What must the notice say?

The notice needs to inform employees about the following:

- A new Health Insurance Marketplace (referred to in the ACA as the "Exchange") exists to help them acquire health insurance. The notice must also include a brief description of the Marketplace and instructions about how to contact it.
- If their employer offers coverage that does not meet certain requirements (i.e., it covers less than 60% of the total allowed cost of their health benefits), employees may be eligible for a credit to help defray the cost of purchasing a policy through the Marketplace.
- If they choose to purchase a policy through the Marketplace, employees may be risking any employer contribution that would have otherwise helped pay for employer-sponsored insurance, and this contribution may have been partially or fully excluded from taxes.

The notice must be written in a manner designed to be easily understood by employees, and should be delivered via first-class mail. Alternatively, the notice can be provided electronically if the Department of Labor's safe harbor requirements for electronic disclosure are met.

The Department of Labor has released model language that may be used in the notice. Employers can access it at www.dol.gov/ebsa/healthreform. Two different versions are available, one for employers that currently offer health insurance benefits and one for those that do not.

Which employers are required to send the notice?

According to the Department of Labor, employers that are subject to the Fair Labor Standards Act (FLSA) must send out the notice. These include employers with one or more employees who are engaged in, or produce goods for, interstate commerce, and generate at least \$500,000 in annual dollar volume of business.

What happens if employers do not comply?

Although the Department of Labor has stated that FLSA employers must send out the notice by October 1, 2013, no penalties will be assessed for employers that fail to do so.

For more information, review the DOL's Technical Release 2013-02, available at www.dol.gov/ebsa/newsroom/tr13-02.html.

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