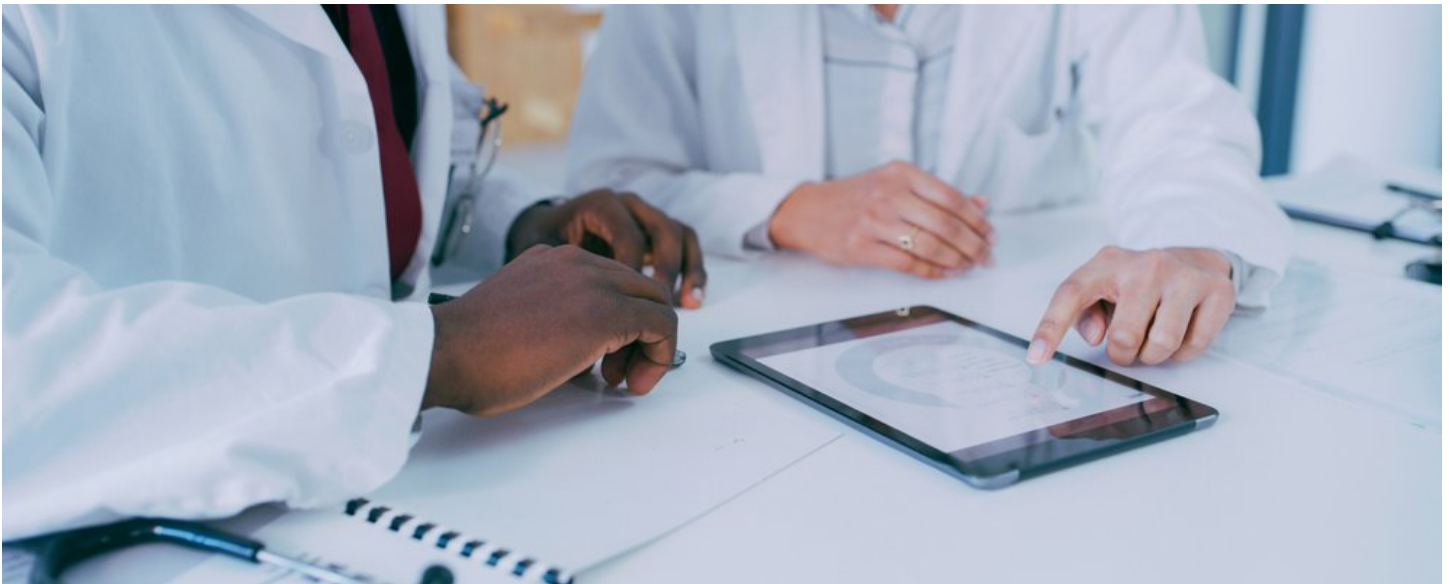




# Required Notices for Group Health Plans



Employers that offer group health plans are required to distribute several different notices each year.

## Employee Retirement Income Security Act notice

Under Title I of the Employee Retirement Income Security Act, administrators of employee benefit plans are required to maintain and furnish different notices to participants and beneficiaries.

- Summary plan description (SPD) notices must detail plan eligibility requirements, benefits, claims, appeals procedures and enrollment rights. An SPD must be provided within 90 days of a participant receiving coverage or within 30 days of a participant's written request. An updated SPD must be furnished every five years if any changes are made to the plan information or the plan is otherwise amended. If no changes are made, SPDs must be furnished every 10 years.
- A plan document must be maintained for every plan. The document must include information on the rights of plan participants and the plan's operation and administration. A summary wrap document can be created that consolidates all the covered benefits offered. The plan document does not need to be provided to employees. However, if an employee does request a copy, the employer must provide it within 30 days of the written request.

# Health Insurance Portability and Accountability Act privacy practices notice

To comply with the Health Insurance Portability and Accountability Act (HIPAA), a notice of privacy practices must be provided. The notice must give employees a clear explanation of their rights with respect to their health information, and the employer's privacy practices.

The notice must be provided at the time of enrollment, whenever a participant requests it, or within 60 days of any material revision.

Sponsors of fully insured health plans that don't create or receive health information, other than summary or enrollment information, do not have to comply with the privacy notice requirement.

## Affordable Care Act notice

Certain notices are also required under the Affordable Care Act (ACA).

- An exchange notice advises employees about the ACA's health insurance marketplace. This notice is due within 14 days of a new employee's start date.
- A notice of patient protections contains information about employees' rights to choose a primary care provider and obtain OB-GYN care without prior authorization. The notice must be furnished whenever a participant is sent a summary plan description or other similar description of benefits under the plan.

## Consolidated Omnibus Budget Reconciliation Act notice

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA), workers and their families who lose their health benefits under certain circumstances may choose to continue group health benefits provided by their group health plan for a limited period of time. Qualifying circumstances include voluntary or involuntary job loss. Once a qualifying event occurs, employers must provide an election notice and a general notice.

- An election notice describes the individual's right to continued coverage and explains how to make an election. The election notice should include the name of the plan and the name, address and phone number of the plan's COBRA administrator.
- A general notice describes general COBRA rights and employee obligations. This notice must be provided to covered employees and spouses who are also covered under the plan. The notice must be provided within the first 90 days of coverage under the group health plan.

# Children's Health Insurance Program notice

If your organization operates in a state that provides premium assistance subsidies under a Medicaid plan or the Children's Health Insurance Program (CHIP), you are also subject to CHIP notice requirements.

The notice must inform employees of opportunities available in their state for Medicaid and CHIP premium assistance programs that may apply to their own health coverage or that of their dependents.

An annual notice must be provided before the start of each plan year. The notice may be provided with enrollment packets, open enrollment materials or the summary plan document.

## Grandfathered plan disclosure/notice

Organizations offering grandfathered plans are required to provide participants with a special grandfather notice periodically with any materials describing plan benefits.

## Michelle's Law notice

Michelle's Law requires employer-sponsored plans, whether fully insured or self-insured, to continue coverage for college students who take a medically necessary leave of absence from school for up to 12 months. During the leave of absence, the employer-sponsored plan must continue to treat the dependent as if they were a full-time student and regular premiums, including employer contributions, must continue to apply.

Michelle's Law requires a written notice to be sent to employees if student status verification is needed for coverage eligibility. The notice must include details about the 12-month leave of absence provision.

All health plans are now required to extend coverage to dependent children up to age 26, regardless of student status, under the ACA. However, employer-sponsored plans that extend coverage to dependents beyond age 26 must continue to comply with Michelle's Law notice requirements if eligibility for coverage requires the dependent to be a full-time student.

## Women's Health and Cancer Rights Act notice

The Women's Health and Cancer Rights Act (WHCRA) includes protections for individuals who elect breast reconstruction in connection with a mastectomy. Group health plans and health insurance issuers that provide coverage for medical and surgical benefits with respect to mastectomies must also cover certain post-mastectomy benefits.

A notice informing participants of their rights under WHCRA must be provided to all employees at the time of enrollment in the health plan and annually thereafter. The notice can be provided in the summary plan document if it is distributed annually to all plan participants.

# Newborns' and Mothers' Health Protection Act notice

The Newborns' and Mothers' Health Protection Act includes important protections for mothers and their newborn children regarding the length of the hospital stay following childbirth.

Notice must be provided to employees explaining that the plan cannot restrict a hospital stay in connection with childbirth to less than 48 hours for a vaginal delivery or 96 hours following a C-section. The notice must be included in the summary plan description for plans providing maternity or newborn infant coverage.

# Mental Health Parity and Addiction Equity Act notice

The Mental Health Parity and Addiction Equity Act (MHPAEA) applies to group health plans that offer mental health and substance use disorder benefits and have 50 or more employees.

The MHPAEA imposes parity requirements for mental health or substance use disorder benefits. For example, plans must offer the same access to care and patient costs for mental health and substance use disorder benefits as those that apply to general medical or surgical benefits.

Notice must be provided to employees that the financial requirements and treatment limits that apply to mental health or substance use benefits under the plan are no more restrictive than for other medical benefits. Notice must be provided upon request.

# Medicare Part D notice of creditable coverage

Medicare Part D requirements apply to group health plans that provide prescription drug coverage to individuals eligible for Medicare Part D coverage. Medicare Part D requires a disclosure notice to be sent to Medicare Part D-qualified individuals who are covered by, or apply for, prescription drug coverage under the employer's health plan.

Notice is due before Medicare Part D's annual election period and upon request.

# Genetic Information Nondiscrimination Act disclosures

The Genetic Information Nondiscrimination Act (GINA) applies if an employer has 15 or more employees.

GINA prohibits health plans and health insurance issuers from discriminating against participants based on genetic information. GINA generally prohibits:

- Basing group premium or contribution amounts on genetic information

- Requesting or requiring an individual or their family members to undergo genetic testing
- Collecting genetic information, whether for underwriting purposes or before or in connection with enrollment

GINA notification must be provided whenever an employer sends an applicant or employee for a medical examination. Notification must also be provided whenever a request for health-related information is made, but only if the request is likely to result in receipt of genetic information.

Though GINA generally does not require notification under any other circumstances, most employers do provide notices to their plan participants to clarify what is required and permitted with regard to obtaining and maintaining genetic information.

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## **Pano Constantine**

(516) 473-0801  
[pconstantine@acumenins.com](mailto:pconstantine@acumenins.com)

## **Acumen Solutions Group**

600 Broadhollow Road, Suite 200  
Melville, NY 11747



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