HR News Alert

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New Summary of Benefits and Coverage Template for 2014

Employers responsible for distributing a summary of benefits and coverage (SBC) to employees in connection with group health plan coverage will need to include additional language to satisfy new requirements under Health Care Reform becoming effective in 2014. An updated **SBC template**, which includes the new language, is now available for SBCs provided with respect to coverage beginning on or after January 1, 2014 and before January 1, 2015.

SBC Notice Requirements

Group health plans are required to provide, without charge, a standard SBC form explaining plan coverage and costs to employees at specified times during the enrollment process and upon request. For insured group health plans, the notice requirement may be satisfied if the issuer furnishes recipients with a timely and complete SBC.

New Language Required for 2014

The updated **SBC template** includes additional language indicating whether the plan provides "minimum essential coverage" (the type of coverage an individual needs to satisfy the **individual responsibility requirement**), and whether the plan meets the "minimum value" standard under Health Care Reform (meaning the plan pays for at least 60% of covered health care expenses).

FAQs issued simultaneously provide some relief for plans already working on preparing SBCs for 2014, where adding the new information to the template would present an administrative burden. To the extent a plan is unable to modify the SBC template for coverage beginning on or after January 1, 2014 and before January 1, 2015, a plan may use the previously authorized template, so long as the SBC is furnished with a cover letter or similar disclosure stating whether the plan does or does not provide "minimum essential coverage" and "minimum value."

For More Information

The **FAQs** also extend, through the end of 2014, various enforcement relief for complying with the SBC requirements that is currently in effect, including the emphasis on assisting (rather than imposing penalties on) plans that are working diligently and in good faith to provide the required SBC content.

Visit our section on **Health Care Reform** to download additional model notices available for employers and group health plans.

Key Employer Choice Feature of Federal SHOP Exchanges Delayed Until 2015

A recently issued **proposed rule** delays the option for employers to offer employees a choice of **qualified health plans** through the new Health Insurance Exchanges, until plan years beginning on or after January 1, 2015.

Note - These delays apply only to the Federal Health Insurance Exchanges. The New York State Exchange still anticipates enrollment for January 1, 2014.

Small Business Health Options Program (SHOP)

Beginning in 2014, Exchanges are required to operate SHOPs as an option for qualified small employers to purchase employee health coverage. The federal government will operate the program in states that do not elect to establish an Exchange.

Under the law, SHOPs must allow employers to choose the level of coverage to offer (bronze, silver, gold, or platinum), define their contribution toward employees' coverage, and then offer employees choices of multiple insurers and plans. SHOPs may also allow employers to offer one or more qualified health plans to employees by other methods, such as allowing the employer to choose a single plan for employees.

Proposed Rule Postpones Choice Feature

In response to operational challenges, the **proposed rule** delays the requirement for all SHOPs to provide employers the option to offer employees a choice of any qualified health plan at a single metal level, until plan years beginning on or after January 1, 2015.

Under the proposed rule, for plan years beginning in calendar year 2014, federally-facilitated SHOPs will only provide employers the option to make available to qualified employees a single qualified health plan. State-based SHOPs would have the flexibility to permit employers to offer their qualified employees a choice of plans at a single level of coverage.

Our **Summary by Year** offers updates on other requirements related to Health Care Reform.

Employee Handbooks Under Fire

There are many businesses that have employee handbooks. Too often, or not often enough, the arduous task of reviewing the handbook falls upon the HR Staff and/or Operations Manager of a company.

Modification and changes to the content of an employee handbook are usually reactionary. For example, employee handbooks are reviewed when there is leadership change within the organization; discovery that content is outdated after a situation arises; or review of the handbook by a third party.

Employee handbooks are coming under more scrutiny these days from third parties with employer compliance and liability on the rise. Various agencies are requesting handbooks from employers in cases of harassment, terminations, or other employee complaints of the employer’s practices. While the merits of the complaint remain to be seen, when third parties request and review the handbooks, additional questions and practices at the employer may arise unrelated to the initial issue. This leads to other questions or opportunities for additional inquiries and audits to occur. Sometimes the issue of the initial complaint is overshadowed and has to be settled because of the additional concerns of the practices or policies in the employee handbook that were discovered. Therefore the secondary handbook issues, that may have been totally unrelated to the initial complaint, caused greater exposure and liability for the employer over the initial complaint. Generally, employers who have dedicated time to review and modify their employee handbooks are more secure in their employment practices and minimize their liability under direct scrutiny of others.

If you would like Marshall and Sterling to discuss or review your employee handbook, please contact Regina Murdock, Human Resources Services Specialist at 914-962-1188 Ext. 2487.

Reminder: Employers Must Use New Version of Form I-9 Beginning May 7, 2013

Employers needing additional time to switch to the new Form I-9 (released in March) have until May 7th to begin using the revised version. Federal law requires all U.S. employers to verify the identity and employment eligibility of employees hired to work in the United States by completing **Form I-9**.

Prior versions of the Form I-9 will no longer be accepted effective May 7th, 2013. Employers should not complete a new Form I-9 for current employees if a properly completed Form I-9 is already on file.

Visit our section on **Form I-9** for guidelines and FAQs on how to comply with the Form I-9

Unpaid Internships: What Employers Need to Know About the Fair Labor Standards Act

Summer is a popular time for hiring interns, but did you know that internships are most often considered 'employment' subject to the federal minimum wage and overtime rules?

The Fair Labor Standards Act
Under the federal **Fair Labor Standards Act** (FLSA), non-exempt individuals who are 'suffered or permitted' to work must be compensated for the services they perform for an employer. Interns who qualify as employees typically must be paid at least the federal minimum wage of $7.25 per hour, as well as overtime compensation at a rate of not less than one and one-half times the regular rate of pay after 40 hours of work in a workweek.

The Test for Unpaid Interns
There are some circumstances under which individuals who participate in for-profit private sector internships or training programs may do so without compensation. This may apply to interns who receive training for their own educational benefit if the training meets certain criteria.

The determination of whether an internship or training program meets this exclusion depends upon all of the facts and circumstances of each program. The **U.S. Department of Labor** (DOL) uses the following six criteria which must be applied when making this determination:

- The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
- The internship experience is for the benefit of the intern;
- The intern does not displace regular employees, but works under close supervision of existing staff;
- The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded;
- The intern is not necessarily entitled to a job at the conclusion of the internship; and
- The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

If all of the factors listed above are met, an employment relationship likely does not exist under federal law, and the FLSA's minimum wage and overtime provisions do not apply to the intern. This exclusion from the definition of employment is quite narrow because the FLSA's definition of 'employ' is very broad.

For a more detailed explanation of the factors used in the test for unpaid interns, please review the DOL **Internship Programs Fact Sheet.** Our section on **Employee Pay** provides information on other common federal wage issues.

Marshall & Sterling Insurance will continue to provide you with updates and information regarding important issues. Should you have specific questions or need more information, please contact us.

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