



**MarshMcLennan
Agency**

**COMPLIANCE
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Guide to annual/recurring federal health and welfare plan participant notices and disclosures

Marsh McLennan Agency

A number of health and welfare plan notices and disclosure requirements apply to group health plans (referred to as “GHPs” or “plans” for the remainder of this “Guide”). While plans may delegate delivery of many disclosures to an insurance carrier or third party administrator (TPA), the compliance obligation for meeting most of these requirements generally belongs to the plan sponsor or plan administrator.¹ The employer is usually both the plan sponsor and plan administrator for a single employer plan, so we will generally reference the employer in this document.

This Guide will highlight many federally required health and welfare plan notices and disclosures, their purpose, timing requirements, and delivery methods. We will also address certain other related federal notice and disclosure requirements applicable to employers that do not depend solely on whether the employer offers health coverage to its employees. This Guide will also provide links to model notices and additional resources. For convenience, we will provide a Glossary of Legal Acronyms used in this Guide at the end.

Note: The notices in this Guide are current as of the publication date above. This Guide does not include event-specific notices, such as COBRA election materials or state/local notices and disclosures.

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¹ The employer may be entitled to damages if an insurance carrier or TPA has contractually agreed to perform this service and fails.

Table of notices and disclosures

Note: In some circumstances, a suggested delivery method may reach a broader audience than is technically required, but at no harm to the employer.

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery method
General notices or disclosures			
Summary Plan Description (SPD) Plans subject to ERISA Responsibility: Plan Administrator	Notifies participants of their benefits, rights, and obligations under the plan as well as certain obligations of the plan and plan administrator	Within 90 days of enrollment Within 120 days of the effective date of coverage, if a new plan Within 30 days upon request Republished at least every 5 years if amended Republished every 10 years if no amendments	The SPD itself <i>Note: Most insurance carrier/TPA provided material, such as booklets or certificates of coverage, will not satisfy all of ERISA's SPD requirements by themselves.</i>
Summary of Material Modifications (SMM) Plans subject to ERISA Responsibility: Plan Administrator	An SMM is an amendment that is not reflected in the current SPD	Material reduction in benefits (includes plan termination) – within 60 days of the date the amendment is adopted ² Other modifications – within 210 days of the end of the plan year in which the amendment took effect	The timing requirements enable many SMMs to be delivered in an updated SPD and/or in annual enrollment materials without the need to issue a separate SMM

² Note: This is not the same as 60 days before the amendment is effective or 60 days after the amendment is effective.

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery method
General notices or disclosures			
Summary Annual Report (SAR) Fully insured plans and “funded” plans subject to ERISA ³ Responsibility: Plan Administrator	Provides a summary of financial information found in the corresponding Form 5500 filing and notifies participants of their right to request a copy Model SAR	Within 9 months of the close of the plan year; or Within 2 months after the corresponding Form 5500 due date (can be affected by a Form 5500 filing extension)	Generally provided separately May be combined with other materials
Model COBRA General Notice ⁴ GHPs <u>Exemptions:</u> <ul style="list-style-type: none"> GHPs of employers with <20 employees in the prior year⁵ Church plans Non-federal government plans if PHSa does not apply Responsibility: Plan Administrator	Notifies participants of a right to continue coverage under certain circumstances Model Notice	Within 90 days of the initial effective date of coverage. Only has to be provided upon initial enrollment in the GHP, and does not need to be provided again if a participant later changes plan options under the same GHP	May be provided separately in new hire packets May be provided in enrollment materials or in a packet of legal notices ⁶ <i>Note: The SPD must also include COBRA rights information, although the information disclosed in an SPD typically differs from this notice and may not always meet this notice’s timing requirement.</i>

³ Self-insured plans paid solely out of an employer’s general assets are not required to provide a SAR, although many do so voluntarily. A plan is “funded” if the assets are held in a trust or are otherwise segregated from the employer’s general assets.

⁴ We do not address COBRA election notices within this Guide. COBRA election notices are available on the [DOL’s website](#).

⁵ Members of a controlled group and/or affiliated service group count together for this purpose.

⁶ Specific delivery requirements for covered spouses may require an employer to mail this material – or mail the COBRA general notice separately – to the employee’s residence (or separate spouse’s residence if known to the employer) in order to meet it.

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
General notices or disclosures			
<p>HIPAA Special Enrollment Rights</p> <p>GHPs subject to HIPAA's portability rules (does not apply to HIPAA-excepted benefits)</p> <p>Responsibility: Plan Administrator</p>	<p>Notifies employees of the right to enroll in GHP coverage outside the initial or annual enrollment period if certain events occur</p> <p>Model Notice</p>	<p>Must be provided at or before the initial opportunity to enroll</p>	<p>May be provided separately in new hire packets</p> <p>May be provided in enrollment materials or in a packet of legal notices</p>
<p>HIPAA Notice of Privacy Practices (NPP)</p> <p>GHPs</p> <p>Responsibility: The HIPAA "Covered Entity" is the GHP itself – This is generally the insurance carrier for a fully insured GHP and the plan sponsor acting on behalf of a self-insured GHP</p>	<p>Notifies participants how a GHP will or may use participant protected health information and participant rights with respect to their health information</p> <p>Model Notice</p>	<p>When a participant enrolls in the GHP</p> <p>Within a reasonable period of time after a participant requests a copy</p> <p>Within 60 days of a material revision to the notice</p>	<p>May be provided separately in new hire packets</p> <p>May be provided in enrollment materials or in a packet of legal notices</p> <p>Must also be posted electronically if the employer/plan sponsor maintains a website</p>
<p>HIPAA Privacy Notice of Availability (NOA)</p> <p>GHPs</p> <p>Responsibility: The HIPAA "Covered Entity" is the GHP itself – This is generally the insurance carrier for a fully insured GHP and the plan sponsor acting on behalf of a self-insured GHP</p>	<p>Reminds participants of the existence of the HIPAA NPP and how to get a copy</p>	<p>Must be provided to participants at least every three years</p> <p><i>Note: The plan can meet this disclosure requirement in other ways, such as providing the NPP annually. The three-year clock restarts each time the plan sponsor discloses it.</i></p>	<p>May be provided separately in new hire packets</p> <p>May be provided in enrollment materials or in a packet of legal notices</p> <p><i>Note: If the plan provides the full HIPAA NPP in new hire packets, this HIPAA NOA may take the place of the larger HIPAA NPP in enrollment materials and legal notices packets provided annually.</i></p>

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
General notices or disclosures			
HIPAA Wellness Program Reasonable Alternative Standards (RAS) Notice GHPs offering a wellness program requiring individuals to meet a standard related to a health factor Responsibility: Plan Administrator	Notifies participants of the opportunity to achieve an incentive by satisfying an alternative standard Model Notice	N/A	Must be disclosed in all materials describing the wellness program and the standards required to achieve incentives This will generally include the SPD and any wellness program-specific materials provided to participants This will often also include enrollment materials
EEOC Wellness Program Notice Wellness programs subject to the ADA and/or GINA Responsibility: Employer	Notifies employees that the wellness program is subject to the ADA and/or GINA, whether incentives will be provided for participation, and how any health information collected may be used and protected Model Notice	Annually before participation in the wellness program begins	Should be disclosed in wellness program materials May also be provided in enrollment materials, in a packet of legal notices, or separately as a stand-alone notice
CHIP Notice Employers who sponsor GHPs in one or more states that provide premium assistance through Medicaid or CHIP toward employer GHP coverage Responsibility: Employer	Notifies employees that premium assistance may be available to help pay for employer coverage if the employee and/or any dependents are eligible for Medicaid or CHIP Model Notice	Must be provided annually to employees eligible for GHP coverage	May be provided in enrollment materials or in a packet of legal notices May also be included in a SPD, although SPDs may not be available to those who are eligible but not enrolled or understood by those individuals that this is where the notice is located

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
General notices or disclosures			
<p>Medicare Part D Creditable/ Non-Creditable Coverage Notice</p> <p>GHPs that provide prescription drug coverage to Medicare Part D eligible individuals</p> <p>Responsibility: Plan Sponsor (usually the employer)</p> <p><i>Note: It is possible for covered individuals to be eligible for Medicare without the employer's knowledge, so any plan providing prescription drug coverage should distribute this notice.</i></p>	<p>Notifies individuals whether the employer-provided prescription drug coverage is at least as good as the coverage available through Medicare Part D</p> <p>Model Notices</p>	<p>Annually prior to the Medicare Part D Annual Election Period beginning on October 15th each year</p> <p>Prior to an individual's initial enrollment period for Medicare Part D</p> <p>Prior to the effective date of coverage for any Medicare-eligible individual that joins the employer's plan</p> <p>Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable</p> <p>Within a reasonable amount of time after an individual requests a copy</p>	<p>May be provided in enrollment materials</p> <p>May be provided in a packet of legal notices or separately as a stand-alone notice to meet annual deadline</p> <p><i>Note: If provided with other materials, this notice must either appear on the first page (after a table of contents is sufficient) or a call-out box must appear on the first page indicating this notice is included in the packet and where it may be found.</i></p>
<p>Newborns' and Mothers' Health Protection Act (NMHPA) Notice</p> <p>GHPs that provide hospitalization benefits in connection with childbirth</p> <p><u>Exemption:</u></p> <ul style="list-style-type: none"> Self-insured non-federal government plans that opt out <p>Responsibility: Plan Administrator</p>	<p>Notifies participants of their rights with respect to certain maternity coverage and related services that must be covered by group medical plans</p> <p>Model Notice</p>	<p>Must be provided when a participant enrolls in the GHP</p>	<p>The protected rights must appear in the SPD which can completely satisfy this notice requirement, although it doesn't have to officially identify itself as this notice</p> <p>May be provided in enrollment materials or in a packet of legal notices</p>

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
General notices or disclosures			
Women’s Health and Cancer Rights Act (WHCRA) Notice GHPs that provide mastectomy benefits Responsibility: Plan Administrator	This notice is a description of mastectomy coverage and related reconstruction services that must be covered by group medical plans Model Notice	Must be provided when a participant enrolls in the GHP and annually thereafter	The protected rights must appear in the SPD, although it doesn’t have to officially identify itself as this notice May be provided in enrollment materials or in a packet of legal notices, which is a recommended approach to meet the annual notification requirement
Qualified Medical Child Support Order (QMCSO)/ National Medical Support Notice (NMSN) Disclosure GHPs ⁷ Church and governmental plans are not subject to QMCSOs, but are subject to NMSNs Responsibility: Plan Administrator	Notifies employees of the procedures for administering a court or agency order requiring the employee to provide coverage for a dependent child Additional resources	A disclosure of how the GHP will administer a QMCSO/NMSN should be included in the SPD provided in connection with enrollment The plan administrator must timely notify the employee when a QMCSO/NMSN has been received ⁸ The plan administrator must timely respond to the court/agency	The SPD can include this disclosure, although it is more common to incorporate by reference to separately policies and procedures Specific communications are required when a QMCSO/NMSN has been received

⁷ A GHP that does not offer dependent coverage is not exempt and would have to respond to the issuing court or agency that dependent coverage is not available.

⁸ The notice content is found in the Additional Resources.

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
ACA-specific notices or disclosures			
Exchange (Marketplace) Notice Responsibility: Employer	Officially known as the Notice to Employees of Coverage Options, this notice is intended to notify employees if the employer provides coverage and the availability of alternative coverage through the Public Insurance Exchange Model Notices	Within 14 days of the date of hire for all employees, regardless of benefits eligibility There is no ongoing obligation to provide individuals with subsequent notice ⁹	We recommend providing these in new hire packets <i>Note: The model notices have not been updated to reflect current enrollment periods or affordability, and an employer may wish to tailor it for the current year.</i>
Summary of Benefits and Coverage (SBC) GHPs <u>Exemption:</u> <ul style="list-style-type: none"> ACA-excepted benefits Responsibility: Plan Administrator for self-insured GHPs/ Plan Administrator and insurance carrier for fully insured GHPs	The SBC is intended to provide basic benefits and coverage information to assist individuals with making an informed enrollment decision Model SBCs and Uniform Glossary	In enrollment materials: <ul style="list-style-type: none"> If enrollment is automatic (i.e., “passive” or “evergreen”), at least 30 days before the plan year begins If the coverage is fully insured and the policy has not been finalized for the next plan year, the SBC must be provided as soon as practical, but no later than 7 days after the policy is issued Within 90 days of a HIPAA special enrollment and within 7 business days upon request	Must generally be provided in enrollment materials, either provided separately in connection with enrollment materials or incorporated within the enrollment materials (SBCs should appear after the table of contents) Since these must also be provided upon request, providing separately in connection with enrollment materials may be less cumbersome At annual enrollment, SBC delivery can be limited to the plan option an individual is actually enrolled in, although many employers will deliver all at once (especially if delivered electronically)

⁹ There does not appear to be a requirement for an employer to provide a new notice to existing employees if the employer ceases to offer coverage or later begins offering coverage.

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
ACA-specific notices or disclosures			
Grandfathered Status Notice GHPs claiming grandfathered status under the ACA Responsibility: Plan Administrator	Notifies participants that the GHP is not required to comply with certain ACA mandates Model Notice	N/A (see Delivery)	Must be provided in all written materials describing the plan, including the SPD and enrollment materials
Patient Protections Notice GHPs <u>Exemption:</u> <ul style="list-style-type: none"> ACA-excepted benefits Responsibility: Plan Administrator	GHPs that require designation of a primary care provider must notify participants of the plan's designation requirements and certain rights to select providers Model Notice	Must be provided when an SPD is provided to the participant	This notice requirement can be satisfied by including the information in the SPD May be provided in enrollment materials or in a packet of legal notices

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
ACA-specific notices or disclosures			
<p>Forms 1095:</p> <p>Form 1095-C by ACA-defined applicable large employers (ALEs)</p> <p>Form 1095-B by insurance carriers to participants for fully insured coverage; by small employers (non-ALEs) to participants in self-insured coverage</p> <p><i>Note: Participants in fully insured plans sponsored by ALEs will receive a Form 1095-C from the employer and Form 1095-B from the insurance carrier.</i></p>	<p><u>Form 1095-C</u> Addresses both employer mandate reporting (IRC Section 6056) and individual mandate reporting (IRC Section 6055) for self-insured coverage</p> <p><u>Form 1095-B</u> Includes individual mandate reporting only and used by insurers for fully insured coverage; Form 1095-B may also be used by:</p> <ul style="list-style-type: none"> • Multiemployer plans • Small employers (<50 FTEs) with self-insured coverage <p>Employers reporting self-insured coverage for certain participants not subject to employer mandate reporting for the year, including retirees and COBRA participants for years following the year of separation from employment</p>	<p>By the following March 2nd (March 1st in leap years) for each calendar year¹⁰</p> <p><i>Note: The IRS provided an automatic safe harbor extension from the original January 31st deadline.</i></p> <p>Matching forms with an accompanying Form 1094 must also be provided to the IRS; different due dates apply</p>	<p>The delivery timing generally requires these to be provided independently from other materials</p>

¹⁰ If the applicable due date falls on a weekend, the forms may be provided by the following business day.

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
Other notices or disclosures			
<p>FMLA Rights Disclosure</p> <p>Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year</p> <p>Governmental employers</p> <p>Public or private elementary or secondary school, regardless of number of employees</p> <p>Responsibility: Employer (Plan Administrator for GHP disclosure, see Delivery Methods)</p>	<p>Notifies employees of their rights, benefits, and obligations under the FMLA</p> <p>Model Poster</p>	<p>Various (see Delivery Methods)</p>	<p>Must be prominently displayed in public areas such as breakrooms</p> <p>Must be included in an employee handbook and/or an employer leave policy</p> <p>We also recommend including this notice in new hire packets (employers must do this if there is no handbook or leave policy)</p> <p>An employer may rely solely on electronic delivery for a given work location only if all of the following are true: (1) All of the employees work remotely at all times; (2) All of the employees customarily receive information from the employer electronically; and (3) All of the employees can readily access the electronic posting at all times.</p> <p>We interpret ERISA to require disclosure of certain FMLA rights to continue or suspend coverage during FMLA leave in an SPD (for employers subject to ERISA) which could be an incorporation by reference to an employer leave policy</p>

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
Other notices or disclosures			
USERRA Rights Disclosure All public and private sector employers Responsibility: Employer	Notifies employees of their rights, benefits, and obligations under USERRA Model Poster	Various (see Delivery Methods)	Must be prominently displayed in public areas such as breakrooms We recommend including this notice in new hire packets This should be included in an employee handbook and/or an employer leave policy We interpret ERISA to require disclosure of certain USERRA rights to continue or suspend coverage during USERRA leave in an SPD (for employers subject to ERISA) which could be an incorporation by reference to an employer leave policy

Notice or disclosure and responsible party	Purpose and model (if available)	When to deliver	Delivery
Other notices or disclosures			
<p>No Surprises Act Surprise Billing Disclosure</p> <p>GHPs (primarily medical/Rx)</p> <p>Responsibility: Plan Administrator for self-insured GHP; Plan Administrator or insurance carrier can satisfy the notice obligations on behalf of a fully insured GHP</p>	<p>Notifies individuals about the federal restrictions on balance billing in certain circumstances, any applicable state law protections against balance billing, and contact information for applicable state/federal agencies for individuals who believe there has been a violation of these rules</p> <p>Model Notice</p> <p><i>Note: We generally recommend employers use surprise billing notices provided by the insurance carriers/TPAs for the medical plan(s), if available. The disclosure must include information about any applicable state law surprise billing protections, but we have seen approaches taken by some insurers that may not comply with this requirement. We include a model in our sample notices packet that we believe is sufficient.</i></p>	<p>Annually, prior to the start of each plan year.</p>	<p>The information must be posted on a public website and included in all EOBs involving out-of-network claims. There is no requirement to include this notice in connection with annual enrollment or in a set of legal notices.</p> <p><u>Posting on Website</u></p> <p>Medical/Rx plans with public websites must post a notice describing surprise billing protections. The existing guidance does not define or describe what constitutes a group health plan public website, but it does not include the sponsoring employer's own public website (at least if there is no page specific to medical/Rx benefits) and does not appear to include an employer's restricted-access benefits portal unavailable to the general public.</p> <p>The guidance indicates a plan with no public website can satisfy the notice obligation if the insurer/TPA posts the notice on its own website where it makes other information available to plan participants and beneficiaries on the plan's behalf. The plan remains liable for any failure by the insurer/TPA to comply, so some sort of indemnification or other contractual protection is preferable.</p> <p><u>EOBs</u></p> <p>We recommend relying on the insurance carrier/TPA for the EOB disclosures</p>

Electronic versus paper delivery

Employers and/or plans must distribute these materials in a way that reasonably ensures that the participants will receive the materials. Employers may use electronic and/or paper delivery, although an employer must meet certain requirements to rely upon electronic delivery for receipt purposes.

Electronic delivery requirements

The electronic delivery requirements for the notices described in this guide vary somewhat, but the following serves as a general summary:

1. **Employee has work-related computer access** – If an employee uses a computer as an integral part of their job, an employer may rely on electronic delivery without prior consent.
2. **Employee does not have work-related computer access** – If an employee does not use a computer as an integral part of their job, an employer may rely on electronic delivery only if the employee provides prior written consent.
 - a. **Online delivery** – If delivery will occur via email or through the company's web portal, the employee's consent should also occur via email or through the company's web portal. The consent method does not have to match the delivery method.

Example: An employee can consent to electronic delivery as part of the annual enrollment process on the company's web portal, and this consent can allow for delivery through both email and/or the company's web portal.

The employee must either agree to delivery to the employee's work email address or provide an alternate email address.¹¹

- b. **Offline delivery** – If delivery will occur via portable electronic media (e.g. USB drive), the consent does not have to be electronic. The consent should indicate the employee is agreeing to delivery to the employee's home address. The employee's work address should not be used.

The consent should indicate what kinds of notices and disclosures will be provided electronically as well as the employee's right to later revoke their consent. We will provide a sample Consent to Electronic Delivery form at the end of this section.

¹¹ A work email address will not satisfy the delivery requirement for the COBRA general notice to a covered spouse.

Electronic delivery formats

If the electronic delivery requirements are met, electronic delivery of notices and disclosures can occur in a variety of ways:

- **Email** – Notices and disclosures may be provided within the body of an email, as hyperlinks to a company's web portal, or as attachments (e.g., as a .pdf).
- **Web portal address** – Hyperlinks to a company's web portal may be provided within an email, or the web portal address information may be provided in written material such as an annual enrollment guide, letter, or postcard.
- **Other electronic media** – Notices and disclosures may be provided by USB drive, CD/DVD, or other portable electronic media.

Paper copies of the notices and disclosures must still be made available upon request and many must be provided free of charge.

Sample consent to electronic delivery

The following is a sample Consent to Electronic Delivery form. As drafted, it is intended for delivery and electronic execution as part of an employer's web-based open enrollment process, but it can be modified for other uses.

ABC company consent to electronic delivery

I agree to permit ABC Company ("ABC") to provide all employee benefit disclosures that may be delivered to me electronically under applicable law including summary plan descriptions, summaries of material modification, summary annual reports, and any other "Notice" a similarly situated employee would consider to be related to employee benefits, to my ABC work email address or other email address that I provide in my [insert HR system name] contact information. I understand that I can update my email address in [insert HR system name] by [insert process].

For the purposes of this consent, a "Notice" is any document, disclosure, policy, procedure, form, or other written material related to my employee benefits that ABC may legally be required to provide to me.

I understand and agree that:

- I have had an opportunity to view and print these disclosures which are found on ABC's intranet portal at [insert web address];
- I have the ability to access employee benefit disclosures sent to my work email address or other email address I have provided, which includes access to ABC's intranet portal if included as a hyperlink in an email sent to the email address;
- I may change my email address for delivery of these notices by updating my contact information in [insert HR system name];
- I may request printed copies of these notices free of charge by contacting [insert contact information]; and
- I may revoke this consent and request all notices be mailed to me by contacting [insert contact information].

I agree that by using the e-signature feature on this portal I am applying my electronic signature which is the legally binding equivalent to my handwritten signature. Whenever I execute an electronic signature, it has the same validity and meaning as my handwritten signature. I also agree that no certification authority or other third-party verification is necessary to validate my e-signature.

[E-Signature]

Date: []

Foreign language requirement

Notice or disclosure and responsible party	When foreign language requirement applies	Foreign language requirement
SPD SMM SAR	<ol style="list-style-type: none">1. A large plan covering 100 or more participants at the beginning of the year must provide language assistance if the lesser of:<ol style="list-style-type: none">(a) 10% of the participants, or(b) 500 or more participantsare only literate in the same non-English language2. A small plan covering fewer than 100 participants at the beginning of the plan year must provide language assistance if at least 25% of the participants are only literate in the same non-English language	<p>The SPD, SMM, or SAR must include a notice in the applicable foreign language(s) that assistance is available</p> <p>The following may be used as a safe harbor:</p> <div><p><i>"This document contains a summary in English of information about the [insert plan name]. If you have difficulty understanding any part of this document, contact your Plan Administrator at [insert telephone number] during regular business hours or by email at [insert email address]."</i></p></div> <p>We recommend this or similar language appear on the cover of the SPD, and be displayed prominently at the beginning of an SMM or SAR</p> <p><i>Note: ERISA does not actually require full translations of these materials, but plan administrators may choose to provide these for obvious reasons.</i></p>

Notice or disclosure and responsible party	When foreign language requirement applies	Foreign language requirement
SBC Claims and appeals notices¹²	<p>Foreign language assistance must be provided if 10% or more of the residents in a county where the material is delivered are only literate in the same non-English language</p> <p>This is maintained as the Culturally and Linguistically Appropriate Services (CLAS) County Data, and the most recent data is available here: CLAS County Data</p> <p>Currently, the CLAS County Data standard only requires foreign language assistance is Spanish, Chinese, Tagalog, and Navajo in certain counties (Spanish is overwhelmingly the most prevalent)</p>	<p>The material must include a notice in the applicable foreign language(s) that assistance is available</p> <p>Written translations must be provided upon request (unlike the rule for SPDs, SMMs, and SARs)</p> <p>SBC templates and related material in English, Spanish, Chinese, Tagalog, and Navajo are available on the CMS Website.</p>
FMLA	<p>If an employer's workforce consists of a significant number of employees who are not literate in English, the FMLA regulations require the employer to provide the General Notice (the FMLA model poster contents) in a language in which the employees are literate. This suggests an employer may have to support multiple languages.</p> <p>This approach also applies to the FMLA Notice of Eligibility and Rights & Responsibilities form, but it does not appear to apply to any other FMLA form.</p>	<p>The U.S. Department of Labor maintains a version of the General Notice in Spanish. Interestingly, it does not maintain a Spanish version of the FMLA Notice of Eligibility and Rights & Responsibilities form.</p>

There are no explicit foreign language requirements for the other notices and disclosures discussed in this Guide, although employers may choose to provide foreign language assistance based on the needs of their employee populations. For convenience, the U.S. Department of Labor maintains Spanish translations of many model notices on its website under [Model Notices and Disclosures](#).

¹² These include the claims and appeal notices for group health plans and disability plans. These notices are event specific and not addressed within this Guide.

Glossary of legal acronyms

ACA - Affordable Care Act

ADA - Americans with Disabilities Act

CHIP - Children's Health Insurance Program

COBRA - Consolidated Omnibus Budget Reconciliation Act

ERISA - Employee Retirement Income Security Act

FMLA - Family Medical Leave Act

GINA – Genetic Information Nondiscrimination Act

HIPAA - Health Insurance Portability and Accountability Act

IRC – Internal Revenue Code

NMHPA - Newborns' and Mothers' Health Protection Act

NMSN – National Medical Support Notice

QMCSO – Qualified Medical Child Support Order

PHSA – Public Health Services Act

USERRA - Uniformed Services Employment and Reemployment Rights Act

WHCRA - Women's Health and Cancer Rights Act

We are providing this information to you in our capacity as consultants with knowledge and experience in the insurance industry and not as legal or tax advice. The issues addressed may have legal or tax implications to you, and we recommend you speak with your legal counsel and/or tax advisor before choosing a course of action based on any of the information contained herein. Changes to factual circumstances or to any rules or other guidance relied upon may affect the accuracy of the information provided. We are not obligated to provide updates on the information presented herein. © 2024 Marsh & McLennan Agency LLC. All Rights Reserved.