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What are the HIPAA portability notification requirements?

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The Health Insurance Portability and Accountability Act (HIPAA) requires that group health plans and issuers of health insurance coverage provide various notices at different times. A brief description of each notice and when it is to be provided is below. Model notices are included in the final regulations.

Special enrollment notice—This notice must be provided at or before the time the employee is initially offered the opportunity to enroll in the plan, and it must be provided to all eligible employees, regardless of whether or not they actually enroll in the plan. The notice provides a description of employees’ special enrollment rights and must include an “educational statement.”

General notice of pre-existing condition exclusion—If your plan includes any pre-existing condition exclusions, this notice must be provided as part of any written application materials or by the earliest date possible following a request for enrollment if the plan or issuer does not distribute written enrollment application materials. This notice must contain the following:

- A description of the plan’s pre-existing condition exclusion
- An explanation of the individual’s right to reduce any applicable waiting period by providing evidence of creditable coverage
- The name of the person to contact for assistance (including phone number or address)
- Effective for plan years beginning on or after Jan. 1, 2014, group health plans and issuers are prohibited from imposing pre-existing condition exclusions (PCEs) on any enrollees as part of the Affordable Care Act (ACA). These restrictions apply to both grandfathered and non-grandfathered plans. Until the ACA’s restrictions take effect for a plan, the HIPAA rules regarding PCEs will continue to apply.

Determination of creditable coverage notice—This notice must be provided if a participant submits evidence of creditable coverage to the group health plan or health insurance coverage issuer in order to reduce the applicable pre-existing condition exclusion. It must be provided on the earliest date following a

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determination of creditable coverage within a reasonable time frame after receiving information regarding prior health coverage. In the event that the plan's PCE is completely offset by creditable coverage, HIPAA does not require that a determination of creditable coverage notice be provided.

Once the ACA regulations prohibiting pre-existing condition exclusions take full effect, this notice will no longer be applicable.

Certificate of creditable coverage—This certificate must be provided automatically in the event that an individual loses coverage under the plan, and again when COBRA coverage terminates. It must be provided upon written request if the request is made within 24 months of when the coverage ceases, regardless of whether or not the individual has previously received it. Final rule under the ACA eliminates the requirement to provide certificates of creditable coverage effective Dec. 31, 2014.