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Business Owners Will Not Be Fined If They Don't Notify Their Employees About the New Health Insurance Marketplace

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U.S. Small Business Administration

As a business owner, it's important to understand how the Affordable Care Act may affect your business. However, with so many misconceptions about how the Affordable Care Act works, this can be difficult.

As part of our ongoing blog series, "Myth vs. Fact: The Affordable Care Act and Small Business," this week we're debunking another common myth: **Business owners will be fined if they don't provide notification to their employees about the new Health Insurance Marketplace.**

Fact: If your company is covered by the Fair Labor Standards Act, you must provide a written notice to your employees about the Health Insurance Marketplace by October 1, 2013. However, there is no fine or penalty under the law for failing to provide the notice.

Which Employers Must Provide This Notification?

Under the Affordable Care Act, all employers covered by the Fair Labor Standards Act (generally, those firms that have at least one employee and at least \$500,000 in annual dollar volume of business), must notify their employees about the new Health Insurance Marketplace, whether or not the employer currently provides health coverage to its employees.

The Marketplace opens for enrollment in all states on October 1, 2013 and offers individuals and small business owners an online portal to find and compare private health insurance options.

What Information Do I Need to Include in the Notice to My Employees?

The notice should inform employees:

- About what the new Health Insurance Marketplace is and that open enrollment begins on October 1, 2013;
- That, depending on their income and what coverage may be offered by the employer, employees may be able to purchase lower cost private insurance in the individual Marketplace; and
- If employees buy insurance through the individual Marketplace, they may lose the employer contribution (if any) to their health benefits.

Employers are required to provide this notice to all current employees by **October 1, 2013**, and to each new employee at the time of hire beginning on that same date. This requirement applies regardless of an employee's plan enrollment status (if applicable) or their part-time or full-time status.

The Department of Labor (DOL) will consider a notice to be provided at the time of hiring if the notice is provided within 14 days of an employee's start date.

Where Can I Get More Information?

DOL has provided employers with two sample notices they may use to help comply with this rule. There is one model for employers who do not offer a health plan and another model for employers who offer a health plan to some or all employees:

- Model Notice for employers who offer a health plan to some or all employees 
- Model Notice for employers who do not offer a health plan 

Access Spanish and MS word versions of the model notices on the DOL Affordable Care Act page.

For more information about this notice requirement, see this Technical Release issued by the Department of Labor. You can also visit DOL's website for additional Q&A on this topic.

DOL's Wage and Hour Division also provides guidance relating to the applicability of the FLSA in general, including a compliance assistance tool to determine applicability of the FLSA.

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