

Justification for Non-material/Non-substantive Change

Many provisions of the Patient Protection and Affordable Care Act (Affordable Care Act) that become effective beginning in 2014 are designed to expand access to affordable health coverage. These include provisions for coverage to be offered through a Health Insurance Marketplace (Marketplace), premium tax credits to assist individuals in purchasing such coverage, employer notice to employees of coverage options available through the Marketplace, and other related provisions. The Departments of Labor, Health and Human Services (HHS), and the Treasury are working together to develop coordinated regulations and other administrative guidance to assist stakeholders with implementation of the Affordable Care Act.

In general, under COBRA, an individual who was covered by a group health plan on the day before a qualifying event occurred (a “qualified beneficiary”) may be able to elect COBRA continuation coverage upon a qualifying event (such as termination of employment or reduction in hours that causes loss of coverage under the plan).¹ A group health plan must provide qualified beneficiaries with an election notice, which describes their rights to continuation coverage and how to make an election. The election notice must be provided to the qualified beneficiaries within 14 days after the plan administrator receives the notice of a qualifying event.

The Department of Labor has a model election notice that plans may use to satisfy the requirement to provide the election notice under COBRA. The model notice is approved under OMB Control number 1210-0123. Some qualified beneficiaries may want to consider and compare health coverage alternatives to COBRA continuation coverage that are available through the Marketplace and which may be eligible for a premium tax credit (a tax credit to help pay for some or all of the cost coverage). The Department is hereby submitting a non-material/non-substantive change request for a modification to the model notice that will help make qualified beneficiaries aware of other coverage options available in the Marketplace and the availability of the premium tax credit. Use of the model election notice, appropriately completed, will be considered by the Department of Labor to be good faith compliance with the election notice content requirements of COBRA.

¹ For more information on COBRA continuation coverage requirements applicable to group health plans, see “An Employer’s Guide to Group Health Continuation Coverage Under COBRA,” available at: <http://www.dol.gov/ebsa/publications/cobraemployer.html>.