

# September 2023

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## KEY DEADLINES

**A** **Sept. 30, 2023—Provide SAR to plan participants (calendar year plans only) – if Form 5500 deadline was not extended**  
Provide a summary annual report (SAR) to plan participants by Sept. 30, 2023, if the employee benefit plan's Form 5500 deadline was not extended. The SAR must be provided within nine months of the close of the plan year unless the plan's Form 5500 deadline was extended. Plans exempt from the annual 5500 filing requirement are not required to provide an SAR. Unfunded welfare plans are also generally exempt from the SAR requirement.

**B** **Sept. 30, 2023—Watch for MLR rebates (fully insured health plans only)**  
Employers with insured health plans might receive rebates if their issuers did not meet their medical loss ratio (MLR) percentage. Rebates must be provided by Sept. 30 following the end of the MLR reporting year. Employers who receive rebates should consider their legal options for using the rebate. Any rebate amount that qualifies as a plan asset under ERISA must be used for the exclusive benefit of the plan's participants and beneficiaries. Also, as a general rule, plan sponsors should use the rebate within three months of receiving it to avoid ERISA's trust requirements.

## GET READY FOR OPEN ENROLLMENT

Employers with calendar year plans should start getting ready for open enrollment for the plan year starting Jan. 1, 2024. This process should include reviewing your company's benefit offerings, working with vendors to make any benefit adjustments, updating benefit limits for 2024 and preparing employee communications. In addition, you should consider providing the following benefit notices in connection with open enrollment:

- **Summary of Benefits and Coverage (SBC):** Group health plans and health insurance issuers are required to provide an SBC to applicants and enrollees each year at open enrollment or renewal time. Federal agencies have provided a [template](#) for the SBC, which health plans and issuers are required to use.
- **Children's Health Insurance Plan (CHIP) Annual Notice:** If your group health plan covers residents in a state that provides a premium subsidy under a Medicaid plan or CHIP, send an annual notice about the available assistance to all employees residing in that state. The annual CHIP notice can be provided at any time during the year, but it is often included with the plan's open enrollment materials. The DOL has a [model notice](#) that employers may use. The DOL updates this model notice frequently, so make sure you are using the most current version.

- **Women’s Health and Cancer Rights Act (WHCRA)**

**Notice:** Group health plans must provide a notice about the WHCRA’s coverage requirements at the time of enrollment and on an annual basis after enrollment. The annual WHCRA notice can be provided at any time during the year, but it is often included with the plan’s open enrollment materials. Employers who redistribute their summary plan descriptions (SPDs) each year can satisfy the annual notice requirement by including the WHCRA notice in their SPDs. Model language is available in the DOL’s [model notice guide](#).

- **SPD:** An SPD must be provided to new plan participants within 90 days of the date their coverage begins. Employers may include the SPD in their open enrollment materials to make sure employees newly enrolled employees receive the SPD on a timely basis. Also, an employer should include the SPD with its enrollment materials if it includes notices that are required to be provided at the time of enrollment, such as the WHCRA notice.

- **Consolidated Omnibus Budget Reconciliation (COBRA)**

**General Notice:** Group health plans must provide a written General Notice of COBRA Rights to covered employees within 90 days after their health plan coverage begins. Employers may include the General Notice in their open enrollment materials to ensure that employees who newly enroll during open enrollment receive the notice on a timely basis. The DOL has a [COBRA Model General Notice](#) that employers may use.

- **Health Insurance Portability and Accountability Act (HIPAA) Privacy Notice (self-insured health plans only):**

The HIPAA Privacy Rule requires self-insured health plans to maintain and provide their own privacy notices. Self-insured health plans are required to send the privacy notice at certain times, including to new enrollees at the time of enrollment. Thus, the privacy notice should be included with the plan’s open enrollment materials. Also, at least once every three years, health plans must either redistribute the privacy notice or notify participants that the privacy notice is available and explain how to obtain a copy. The Department of Health and Human Services (HHS) has [model privacy notices](#) for employers to use.

- **Special Enrollment Rights Notice:** At or prior to the time of enrollment, a group health plan must provide each eligible employee with a notice of his or her special enrollment rights HIPAA. This notice is often included in the plan’s SPD.

- **Notice of Patient Protections:** If a health plan requires participants to designate a participating primary care provider, the plan or issuer must provide a notice of patient protections whenever the SPD or similar description of benefits is provided to a participant. This notice is often included in the SPD or insurance certificate provided by the issuer (or otherwise provided with enrollment materials). The DOL has provided a [model notice](#) for employers to use.

- **Grandfathered Plan Notice:** Companies with grandfathered health plans must include a statement of the plan’s grandfathered status in plan materials provided to participants describing the plan’s benefits (such as open enrollment materials). The DOL has a [model notice](#) for employers to use.