

Legal Update

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New Notice Requirement for Fixed Indemnity Coverage for 2025

Employers offering fixed indemnity coverage must comply with a new notice requirement for plan years beginning on or after Jan. 1, 2025. The new notice is designed to explain the limitations of fixed indemnity coverage and help prevent employees from mistakenly selecting such coverage as an alternative to or replacement for traditional health coverage.

Employers with fixed indemnity policies should ensure that enrollment, application and marketing materials for the 2025 plan year include the required notice.

Fixed Indemnity Coverage

Fixed indemnity coverage is a type of excepted benefit not subject to certain key Affordable Care Act (ACA) reforms. The primary purpose of this type of coverage is to provide income replacement benefits rather than comprehensive health coverage. In general, fixed indemnity coverage pays a fixed dollar amount per day (or per other period) following the occurrence of a health-related event, such as a period of hospitalization or illness, subject to the policy's terms. Fixed indemnity benefit payments are made at a predetermined level, regardless of the amount of health care costs incurred (for example, \$100 per day of hospitalization).

Traditionally, benefits under fixed indemnity coverage are paid directly to a policyholder rather than a health care provider or facility. The policyholder has discretion over how to use such benefits—including using the payment to cover nonmedical expenses, such as child care or transportation—that may or may not be related to the event that precipitated the payment.

New Notice Requirement

On April 3, 2024, the U.S. Departments of Labor, Health and Human Services, and the Treasury issued a [final rule](#) on certain types of health coverage that are not subject to the ACA's consumer protections, including fixed indemnity coverage.

Effective for plan years beginning on or after Jan. 1, 2025, the final rule requires a consumer notice to be provided when offering fixed indemnity excepted benefits coverage in the group market to ensure that consumers can distinguish between this coverage and traditional health coverage. This notice requirement applies to both new and existing fixed indemnity coverage.

The new notice must be prominently displayed in at least 14-point font on the first page of any marketing, application or enrollment materials provided to participants at or before the time they are given the opportunity to enroll in the coverage.



HIGHLIGHTS

- A final rule was issued on April 3, 2024, that includes a new notice requirement for fixed indemnity coverage.
- The notice is intended to help employees understand the differences between fixed indemnity coverage and traditional health coverage.
- Employers with fixed indemnity policies should ensure the required notice is included in enrollment, application and marketing materials for the plan year beginning in 2025.

The notice is prominently displayed if it is easily noticeable to a typical consumer within the context of the page (either paper or electronic) on which it is displayed. This includes, for example, using a font color that contrasts with the background of the document, ensuring the notice is not obscured by any other written or graphic content on the page, and, when displayed on a website, ensuring the notice is visible without requiring the viewer to click on a link to view the notice.

The following is the required text for the notice:

IMPORTANT: This is a fixed indemnity policy, NOT health insurance

This fixed indemnity policy may pay you a limited dollar amount if you're sick or hospitalized. You're still responsible for paying the cost of your care.

- The payment you get isn't based on the size of your medical bill.
- There might be a limit on how much this policy will pay each year.
- This policy isn't a substitute for comprehensive health insurance.
- Since this policy isn't health insurance, it doesn't have to include most Federal consumer protections that apply to health insurance.

Looking for comprehensive health insurance?

- Visit [HealthCare.gov](https://www.healthcare.gov) or call 1-800-318-2596 (TTY: 1-855-889-4325) to find health coverage options.
- To find out if you can get health insurance through your job, or a family member's job, contact the employer.

Questions about this policy?

- For questions or complaints about this policy, contact your State Department of Insurance. Find their number on the National Association of Insurance Commissioners' website ([naic.org](https://www.naic.org)) under "Insurance Departments."
- If you have this policy through your job, or a family member's job, contact the employer.

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