

HIPAA SPECIAL ENROLLMENT NOTICE

If you are declining enrollment for yourself or your dependents (including your spouse) because of other health insurance or group health plan coverage, you may be able to enroll yourself or your dependents in this plan if you or your dependents lose eligibility for that other coverage (or if the employer stops contributing towards your or your dependents' other coverage). However, you must request enrollment within "30 days" after your or your dependents' other coverage ends (or after the employer stops contributing toward the other coverage).

In addition, if you have a new dependent as result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your dependents. However, you must request enrollment within "30 days after the marriage, birth, adoption, or placement for adoption.

Special enrollment rights also may exist in the following circumstances:

- If you or your dependents experience a loss of eligibility for Medicaid or a state Children's Health Insurance Program (CHIP) coverage and you request enrollment within "60 days" after that coverage ends; or
- If you or your dependents become eligible for a state premium assistance subsidy through Medicaid or a state CHIP with respect to coverage under this plan and you request enrollment within "60 days" after the determination of eligibility for such assistance.
- Note: The "60-day" period for requesting enrollment applies only in these last two listed circumstances relating to Medicaid and state CHIP. As described above, a "30-day" period applies to most special enrollments.

To request special enrollment or obtain more information, contact your employer's Human Resource, Payroll or Benefit Department.

HIPAA SPECIAL ENROLLMENT REQUIREMENTS

The Health Insurance Portability and Accountability Act of 1996, as amended through July 2013, (HIPAA) includes rules requiring employer plans to extend special enrollment opportunities to certain employees and dependents if loss of other coverage occurs or new dependents are gained. In addition, starting in 2009, plans must allow new special enrollment opportunities related to eligibility for Medicaid and State Children's Health Insurance Program (CHIP) coverage.

ENFORCEMENT, APPLICABILITY AND PENALTIES

The special enrollment provisions are one part of HIPAA's portability provisions and, as such, are part of three different federal laws: the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code (Code) and the Public Health Service Act (PHSA). Three agencies (the Department of Labor (DOL), the Department of the Treasury through the Internal Revenue Service (IRS) and the Department of Health and Human Services (HHS)) are responsible for implementing the special enrollment provisions. These agencies have issued final regulations implementing the special enrollment rules. Legislation enacted since the regulations were issued, including the federal health care reform law, has affected the HIPAA special enrollment obligations.

THREE TYPES OF SPECIAL ENROLLMENT

The HIPAA rules require plans to allow special enrollment in several situations. These are generally discussed in three groups.

- Special enrollment opportunities when a current employee or a current employee's dependent loses other coverage (coverage loss special enrollments)
- Special enrollment opportunities due to birth, adoption, or placement for adoption of a child with a current employee or a participant who is not a current employee, or marriage of a current employee or a participant who is not a current employee (new dependent special enrollments)

- Special enrollment opportunities when a current employee or a current employee's dependent loses Medicaid or CHIP coverage or becomes eligible for Medicaid or CHIP premium assistance (Medicaid and CHIP special enrollments)

COVERAGE LOSS SPECIAL ENROLLMENTS

One special enrollment rule applies to eligible employees who declined an opportunity to enroll in an employer's health plan if other coverage was then in effect. Several conditions must be met for this special enrollment opportunity to apply. If all the necessary conditions are met, these employees may enroll themselves and certain of their dependents in the plan following loss of other coverage.

- If the employee had the other coverage, and all other conditions are met (see * below), the employee can enroll himself or herself, along with any or all of his or her dependents, regardless of whether those dependents had other coverage.
- If a dependent had the other coverage, and all other conditions are met (see * below), the employee can enroll himself or herself along with that dependent, even if the employee did not have other coverage previously.

WHEN OTHER COVERAGE MUST HAVE BEEN IN EFFECT

The regulations make clear that the time that other coverage must be in effect for purposes of coverage loss special enrollment need not have been when the employee first declined enrollment. The other coverage condition will be met if other coverage was in effect at any time that the employee had an enrollment opportunity, such as an open enrollment or a special enrollment.

Availability of Notice of Privacy Practices

Privacy rules under HIPAA require plans to provide notice of their privacy practices to new participants and redistribute the notice if it is revised. In addition, HIPAA requires plans to send a reminder to participants every three years that a detailed description of their privacy rights is available and how to get a copy. A sample notice of availability is set out below. Sending either the full notice of privacy practices or the reminder notice annually more than fulfills the requirement and might be easier than remembering to send it every three years.