

# Distribution Rules

Participant notices and other plan information must be provided in a way that is reasonably calculated to ensure delivery to all plan participants. There are two primary ways to deliver these annual notices – by paper and electronically.

In most instances the information only needs to be provided to the plan participant, who is then expected to share the information with a covered spouse or children. If the employer is aware that the participant and the dependent spouse or child are living apart, a separate disclosure generally should be provided to the dependent. (College students are considered to be living at home for purposes of this rule.)

**Paper Delivery.** Paper delivery methods include sending the information through the U.S. mail, via interoffice mail, as an insert with a paycheck, or by hand. If mailing, the information may be sent by first class mail. Simply placing the information in a common area, like a lunchroom, is *not* adequate.

**Electronic Delivery.** These annual notices may be delivered electronically as long as certain requirements are met. Recipients of electronic disclosures are divided into two groups – those with work-related computer access, and those who do not use computers as a part of their jobs. An employee who has computer access as a part of their job do not need to consent to receive the notices electronically. Employees who do not access a computer as a part of their job must specifically consent in writing to receive disclosures electronically. See below for a sample consent form. An employee is considered to have work-related computer usage if:

- The employee is able to access documents that are sent in electronic format at any location where the employee performs his or her job duties, and
- The employee is expected to access the employer’s electronic information system as part of his or her key job duties

An employer may electronically distribute the notices by email or by posting to a website, intranet, or online enrollment system platform. Note that the notices may not simply be posted to a website, intranet, or online enrollment system. The employer must also send a notice, either electronically or in paper form, that notifies the participant that the disclosure is available, how to access it, the significance of the disclosure, and that a paper copy is available at no cost, with instructions on how to request a paper copy.

## **Sample electronic distribution language by email**

*Subject Line - Important notices regarding the ABC Health Plan*

*Attached are various required notices regarding our group health plan. It is important that you familiarize yourself with the information contained within these notices. If you would like to receive a paper copy, contact human resources and a paper copy of these notices will be provided to you free of charge.*

## **Sample language of notices being posted to website, intranet, or online enrollment system**

Subject Line - Important notices posted regarding the ABC Health Plan  
We have posted updated annual notices on our intranet in the Company Benefits folder. These notices describe important information regarding our group medical plan. We encourage you to read the notices at your earliest convenience. You have the right to receive a paper copy of the notices at no cost to you. To request a paper copy contact Jane Doe at [janed@abc.com](mailto:janed@abc.com) or at 555.111.0000. Also feel free to contact Jane if you have questions about your benefits.

An employer is not required to use the same distribution method for all participants, so it may provide notices electronically to employees who use a computer as part of their job and also use paper notices for participants who do not use a computer to perform their job. Whether provided electronically or in paper, employers should maintain copies of all plan disclosures sent, including the date sent and which individuals or employee groups received the information. Also, the employer must use its best efforts to ensure that there is actual receipt of the notice, such as by using the return receipt or notice of undelivered email feature. If a communication is returned, the employer must take steps to find an alternate address and re-send the information.

**Sample Consent to Receive Electronic Health Plan Notices**

*I consent to the electronic delivery of health plan notices and disclosures at the email address provided below.*

*I may revoke my consent at any time by contacting human resources*

*I understand that if my email address changes, I must contact human resources and provide my updated address.*

*I am entitled to request and obtain a paper copy of any electronically furnished document free of charge by contacting human resources.*

*In order to access information provided electronically, I must have:*

- *A computer with internet access;*
- *An email account that allows me to send and receive emails; and*
- *Microsoft Word or PDF viewer.*

*Human resources email address: [hr@abc.com]*

*Human resources phone number: [555.111.0000]*

<i>Name:</i>	
<i>Email Address:</i>	
<i>Mailing Address:</i>	
<i>Signature:</i>	
<i>Date:</i>	