

Pike & Preston

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The Power of Partnership



September 9, 2013

Due to the timeliness of the topic, this edition of the Pike & Preston Minute is devoted entirely to the FLSA Exchange Notice.

Employer Notice of Exchange...

In our August newsletter we reminded you that most employers are required to provide all employees with written notification regarding their state's Marketplace. This newsletter is devoted to this notice and the new information that has recently been made available.



The FLSA (Fair Labor Standards Act) Exchange Notice must be issued to by **October 1, 2013** to all employees (full-time, part-time or season) whether or not they are eligible for coverage at the time of the notice. After October 1, 2013, the notice must be given to all newly hired employees within 14 days of their start date.

The notice must be given in a written format to be understood by the average employee. If your average employee's

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primary language is other than English you will have to provide the notice in that language as well.

Failure to provide this notice to all employee prior to October 1, 2013 and all future newly hired employees could result in fines of \$100 per day per employee not notified.

Employers should maintain documentation on how the notice was distributed initially and to all newly hired employees after 10/1/13, to whom the notice was given (including date and method) and include a copy of the notice. The DOL has not issued guidance with regard to how notices can be delivered, other than by mail. However the following options are expected to be acceptable: hand-delivered, attached to paychecks, included in new hire kits for employees hired after 10/1/13, or electronically (provided it meets the DOL electronic disclosure safe harbor). The safest manner to discharge this notice would be mail or attached to paychecks.

The Department of Labor issued a technical release 2013-02 (<http://www.dol.gov/ebsa/newsroom/tr13-02.html>) providing guidance for employers as well as model notices. The release included notices for employers who offer coverage and for those who do not offer coverage.

- [Model Notice](#) for employers who offer health insurance
- [Model Notice](#) for employers who do not offer health insurance

Please note that these notices will need to be modified for Kentucky employers. Kentucky has it's own exchange/marketplace and these notices refer only to the federally run Marketplace.

Following are notes with regard to how to complete the notice:

1. On Page 1, be sure to include the person or department at your company someone should contact if they have questions (include the name and phone number - you may want to include an e-mail address).
2. On Page 1, the model notice states to "visit HealthCare.gov for more information" - this need to be changed to <http://kynect.ky.gov/>.
3. Page 2 you will need to determine which of the boxes you should select.
 1. Most employers do not offer coverage to part-time employees so for question 1 they would select the second option "Some employees" and then would list: "Eligible employee are full-time employees."
 2. The second question asks for a definition of



The Hagyard Challenge Series

Please join us for a wonderful free family evening of Grand Prix jumping. See riders and horses from all over the world participate in Challenge Series.

Our final event is September 20th.

All events are held in the evening (usually starting around 7:00 pm).

Guests can partake of free drinks and food. Please RSVP to rgall@pikeandpreston.com if you would like to join us.

Come and join us for a great family fun evening!!

eligible dependents. You could state "Eligible dependents are: an employee's legally married spouse, natural, step or adopted children up to age 26 and disabled children over age 26 who are permanently mentally or physically handicapped, unmarried and incapable of self-sustaining employment who were covered by the plan prior to age 26."

3. The final box on this page may or may not be checked. It is also acceptable to write in "unknown". This question should only be checked if you are sure that at least one of the plans you offer meets both tests (minimum value standard and "affordable" as defined by PPACA). Please contact your account rep if you need assistance in determining if the plan(s) you offer meet these requirements.
4. The bottom of Page 2 also refers to

HealthCare.gov and needs to be changed in two places to <http://kynect.ky.gov/>.
5. Page 3 is **OPTIONAL** and does not have to be completed. If this page is completed it will have to be somewhat personalized for each employee with regard to question 13 and possibly question 15.
6. Many current medical plans do meet the minimum value standards, however you should not assume that your plan(s) meets this requirement. You will need to either use the HHS Minimum Value Calculator (<http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mv-calculator-final-4-11-2013.xlsm>) or contact your account rep in our office for assistance.
7. Most employers will not answer question 16.

Remember, all employers must provide this completed notice to each employee prior by October 1, 2013.

We hope this guidance is helpful. This information was compiled based on a recently attended 8 hour NAHU (National Association of Health Underwriters) seminar and two webinars. The information contained in the newsletter is not intended as legal or tax advice. Please let us know if you have a topic you would like discussed or if you would like to schedule a meeting to discuss these or any other topics.

Sincerely,

Robin C. Gall
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