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TO: Participating Agency & Participating Employer Health Benefits
Administrators & Chief Executive Officers

FROM: The Employee Benefits Division

SUBJECT: Patient Protection and Affordable Care Act (PPACA) Marketplace
Notice Requirement, Effective October 1, 2013

DATE: July 24, 2013

Continuing NYSHIP's practice of informing Participating Agencies and Participating Employers about issues related to health insurance coverage under the Patient Protection and Affordable Care Act (PPACA), we are advising you of the Marketplace Notice requirement. The attached memo outlines the requirements and responsibilities employers face when issuing the Market Notice to their employees. Employers are required to inform both part-time and full-time employees of the existence of the Marketplace, and the implications it could have if an employee enrolls in coverage through the Marketplace. This memo provides on-line resources for model notices provided by the Department of Labor that meet the requirements. Additionally, this memo provides resources for amendments to the COBRA notice as provided by the Department of Labor, which is also required to mention the existence of the health insurance Marketplace.

The requirements of PPACA are external to NYSHIP policy, but related in their implications and consequences. We will continue our practice of informing Participating Agencies and Participating Employers of PPACA requirements; however, this memo does not constitute compliance or legal advice for employers participating in NYSHIP.

Attachment

Patient Protection and Affordable Care Act (PPACA) Marketplace Notice Requirement, Effective October 1, 2013

The purpose of this memo is to advise you that effective October 1, 2013 the Patient Protection and Affordable Care Act (PPACA) requires employers to provide notice to new hires and current employees regarding health care coverage options available through insurance Marketplaces (referred to in the law, and more commonly known as “Exchanges”). In addition to the notice requirement, employers also are encouraged to modify their COBRA notices to include information about the Marketplace. Open enrollment for health insurance coverage through the Marketplace is scheduled to begin in October 2013 for coverage starting as early as January 1, 2014.

The Marketplace notice must be provided to all full-time and part-time employees, regardless of whether they are enrolled for health benefits. **Since this is an employer responsibility, NYSHIP will not be providing this notice; each Participating Agency and Participating Employer is responsible for providing the notice to each of its employees.**

Department of Labor Model Notice

The Department of Labor has issued a Marketplace model notice that can be used by employers to inform their employees of the Marketplace and the implications of purchasing insurance coverage through the Marketplace. The Department of Labor model notice outlines all the information employers are required to present to their employees. The following link provides the model notice for employers that offer insurance to their employees: <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf> . It is the responsibility of the employer to determine if the health coverage they offer to employees meets the standards outlined in the notice.

Notification Regarding COBRA

The Department of Labor has issued a COBRA model notice to help inform beneficiaries of available Marketplace coverage. The model notice can be found at <http://www.dol.gov/ebsa/modelectionnoticeredline.doc> . Employers are encouraged to modify their COBRA notice to beneficiaries to include mention of coverage availability through Marketplaces. Enrollment in Marketplace coverage in lieu of COBRA could be in the benefit of both the beneficiary and the employer.

Time and Delivery Requirements

There are detailed time and delivery requirements for this notice. Again, this notice must be provided to all employees regardless of full-time or part-time employment status, and whether they are currently enrolled in an employer plan. Employers are not required to give separate notice to employee dependents or other individuals who are not employees. Current employees must receive the notice by October 1, 2013. New employees must receive the notice at the time of hire beginning October 1, 2013; however, the Department of Labor will deem any notice given within 14 days from date of hire as being adequately provided.

The notice can be provided in writing by first-class mail, or electronically if the Department of Labor's electronic disclosure safe harbor requirements are met.

You can find additional information about the Marketplace notice requirements at <http://www.dol.gov/ebsa/newsroom/tr13-02.html>, or consult with your legal counsel and/or benefits consultant.