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In January of 2013, HHS issued new final HIPAA Privacy and Security Rules which, in part, require distribution of a revised notice of privacy practices.

## Who Must Distribute the Notice of Privacy Practices?

Self-Insured Plans. For benefits not provided by an insurer or HMO (e.g., a self-funded major medical plan, dental plan, or vision plan, or health FSA), employers must send participants a notice of privacy practices at the time of enrollment, upon request, and within 60 days of a material revision and, in addition, notify participants of the availability of the notice of privacy practices and how to obtain it at least once every three years.

Fully Insured Plans. Employers do not need to update any notice of privacy practice for any insured health plan. For benefits provided by an insurer or HMO, an employer must maintain the insurance carrier's notice of privacy practices and provide it upon request. The carrier has the primary notice obligation.

## When Must the Notice be Distributed?

The deadline for distribution of a revised notice of privacy practice is as follows:

- A health plan that posts its notice on its website must prominently post the change or its revised notice on its website by **September 23, 2013** and provide the revised notice, or information about the material change and how to obtain the revised notice, in its next annual mailing to individuals then covered by the plan. Under existing rules, a covered entity that maintains a website that provides information about the covered entity's customer services or benefits must prominently post its notice on the website and make the notice available electronically through the website.
- A health plan that does not post its notice on a website must provide the revised notice, or information about the material change and how to obtain the revised notice, to individuals then covered by the plan by **December 23, 2013**.

## What Must be Provided in the Notice?

The notice of privacy practices must reflect additional content, including:

- The prohibition on using genetic information for underwriting purposes;
- Certain uses and disclosures of PHI that require authorization such as for psychotherapy notes and the sale and marketing of PHI;
- A statement explaining that individuals can restrict disclosure of PHI to a health plan if the disclosure is for payment or health care operations and pertains to a health care item or service for which the individual has paid out-of-pocket in full; and
- That affected individuals have the right to be notified following a breach of PHI.

HHS considers these changes to be material.

Unfortunately, no model sample notice of privacy practices is available from HHS. However, click below for our [sample updated notice of privacy practices](#).

