



## Commonwealth Benefits Group

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WHAT YOU NEED TO KNOW



## Health Insurance Marketplace Notice and OMB Expiration Date

Under the Patient Protection and Affordable Care Act (ACA), an applicable employer must provide a written notice about the Health Insurance Marketplace to each employee. The Department of Labor (DOL) provides a [model notice for employers that offer a health plan](#) and a [model notice for employers that do not offer a health plan](#).

### Can I continue to use the model notice if the OMB approval number has expired?

At the top right of each model notice, there is a Form Approved area that indicates the form's OMB approval number and expiration date. Often, as the expiration date approaches, employers will ask whether they can continue to use the model notice after the OMB approval number expires and whether the DOL has indicated when it will update its form.

Employers can continue to use the model notice if the OMB approval number has expired. The DOL doesn't usually give advanced notice when it will update its forms.

### What is the OMB expiration date?

As clarification, the OMB expiration date applies to the OMB approval, not the form. This means that the expiration date does not apply to the form itself, just the Office of Management and Budget (OMB) approval of the form for data collection purposes. A form can still be used if the OMB approval number has expired; however, under the Privacy Act, the expiration of the OMB approval number can limit the information the government can require an individual to provide if the form is intended to collect information.

Also, sometimes an agency has secured an updated OMB approval, but simply hasn't revised a form to reflect the updated OMB approval.

Even if an OMB approval number has expired, the failure of a form to display a currently valid OMB number does not invalidate the underlying regulation or law.

Practically speaking, even if the DOL Model Notice's OMB form approval date expires, the ACA still requires employers covered by the Fair Labor Standards Act to inform their employees of the following aspects of the Health Insurance Marketplace:

- Information about the Health Insurance Marketplace.
- That, depending on their income and what coverage may be offered by the employer, employees may be able to get lower cost private insurance in the Marketplace.
- That, if they buy insurance through the Marketplace, employees may lose the employer contribution (if any) to their health benefits.

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Our access to ACA Advisor resources can help you clear up ACA questions and better craft your company's benefit strategy for the future.

This information is general and is provided for educational purposes only. It reflects UBA's understanding of the available guidance as of the date shown and is subject to change. It is not intended to provide legal advice. You should not act on this information without consulting legal counsel or other knowledgeable advisors.

