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## HR News Alert

Brought to you by Potomac Basin Group

June 2013 Issue



As part of our ongoing commitment to our clients and prospects, we hosted a Health Care Reform seminar back in March of this year. Below is the link to our live recorded seminar, with guest speaker Tammy Killion of Groom Law Group and John Deem, VP of Business Development here at Potomac Basin.

As always, we are here to answer any questions you have and guide you through the Health Care Reform laws. Please contact your sales associate or your dedicated client service manager if you need further assistance.

<http://www.potomacbasin.com/webinar/>

Regards,

The Potomac Basin Team

### **New Model Forms Released: Health Insurance Exchange Notices and Revised COBRA Election Notice**

Employers and group health plan administrators will want to download [new model notices](#) released by the U.S. Department of Labor (DOL) to

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comply with changes as a result of Health Care Reform.

### **New Model Exchange Notices -- Distribute to Employees No Later Than October 1, 2013**

Following a delay in the original effective date, employers need to comply with the new requirement to provide employees a written notice with information about a Health Insurance Exchange (Marketplace) beginning this fall. Two separate notices are available from the DOL:

- [Model Notice](#) for Employers Who Offer a Health Plan to Some or All Employees
- [Model Notice](#) for Employers Who Do Not Offer a Health Plan

[and Minimum Deductibles for Health Savings Accounts](#)

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Employers are required to provide the written notice to each current employee not later than October 1, 2013, and to each new employee at the time of hiring beginning October 1, 2013 (a notice will generally be considered to be provided 'at the time of hiring' if it is furnished within 14 days of an employee's start date).

Employers must provide the notice automatically and free of charge to each employee, regardless of plan enrollment status or of part-time or full-time status. The notice may be distributed by first-class mail, or electronically if certain requirements are met. Employers do not need to provide a separate notice to dependents or other individuals who are or may become eligible for coverage under the plan but who are not employees.

### **Updated Model COBRA Election Notice**

A revised [Model COBRA Election Notice](#) is now available for group health plans [subject to federal COBRA](#) to inform eligible employees and dependents of the right to continue coverage and how to make an election when a [qualifying event](#) occurs.

COBRA generally requires [plan administrators](#) to provide eligible individuals (called 'qualified beneficiaries') an election notice within 14 days after receiving notice of a qualifying event. The updated model notice includes additional information for qualified beneficiaries who may want to consider and compare health coverage alternatives to COBRA that will be available through the Health Insurance Exchanges (Marketplaces), which are expected to begin operating in 2014.

Check out our [Group Health Plan Notices Calendar](#) for information on other notice requirements and to download additional model notices.

## 2014 Contribution Limits and Minimum Deductibles for Health Savings Accounts

The IRS has released the [2014 inflation adjusted amounts](#) for [health savings accounts](#) (HSAs). To qualify for an HSA, an individual must be covered under a high deductible health plan (HDHP) and meet certain other [eligibility requirements](#).



### HSA Basics

An HSA may receive contributions from an eligible individual or any other person, including an employer or a family member, on behalf of the individual. Contributions, other than employer contributions, are deductible on the eligible individual's return. Employer contributions are not included in income. Distributions from an HSA that are used to pay qualified medical expenses are not taxed.

### Annual Contribution Limitation

For calendar year 2014, the annual limitation on HSA deductions for an individual with self-only coverage under an HDHP is **\$3,300**. The annual limitation on HSA deductions for an individual with family coverage under an HDHP is **\$6,550**.

### High Deductible Health Plan

For calendar year 2014, a 'high deductible health plan' is defined as a health plan with an annual deductible that is not less than \$1,250 for self-only coverage or \$2,500 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed \$6,350 for self-only coverage or \$12,700 for family coverage.

You can read more about HSAs in our section on [Health Savings Accounts](#).

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## NLRB 'Employee Rights' Poster Rule Invalidated by U.S. Court of Appeals

The [D.C. Circuit Court of Appeals](#) has invalidated the National Labor Relations Board (NLRB) [rule](#) requiring most private employers to [post a notice informing employees of their rights](#) under the National Labor Relations Act. The court had previously issued an order temporarily blocking enforcement of the rule.

According to the decision, the NLRB rule violates the National Labor Relations Act because, among other reasons, it makes an employer's failure to post the notice an unfair labor practice and treats such a failure as evidence of an unfair labor practice. The court concluded that, like the freedom of speech guaranteed in the First Amendment, the National Labor Relations Act protects the right of employers not to speak.

To learn about other federal notices required to be displayed in the workplace, please visit our section

on [Federal Poster Requirements](#).

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## Q&As Address Cancer and Other Specific Disabilities in the Workplace

The [U.S. Equal Employment Opportunity Commission](#) (EEOC) has issued four revised documents on protection against disability discrimination. Specifically, the guidance addresses how the [Americans with Disabilities Act](#) (ADA) applies to applicants and employees with:

- [Cancer](#),
- [Diabetes](#),
- [Epilepsy](#), and
- [Intellectual disabilities](#).

In plain, easy-to-understand language, the revised documents reflect the changes to the definition of 'disability' made by the [ADA Amendments Act](#) that make it easier to conclude that individuals with a wide range of impairments are protected by the ADA. Each of the documents also answers questions about topics such as:

- When an employer may obtain medical information from applicants and employees;
- What types of reasonable accommodations individuals with these particular disabilities might need;
- How an employer should handle safety concerns; and
- What an employer should do to prevent and correct disability-based harassment.

The ADA applies generally to private employers with **15 or more employees**. In addition, most states have their own laws prohibiting employment discrimination on the basis of disability. Some of these state laws may apply to smaller employers and may provide protections in addition to those available under the ADA.

Our section on the [ADA](#) includes additional information on disability discrimination in the workplace.

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## Workplace Dress Codes – 3 Do's and Don'ts for Employers

The arrival of summer temperatures, along with a more relaxed feel around the office, can leave some employers unsure about how to set dress standards that are both in line with the company image and in compliance with the law. Consider the following do's and don'ts:

### **1. DO Make Sure Your Policies are Clearly Communicated**

Your dress code will more likely be observed if it is communicated in a clear and unambiguous manner, including:

- Your company's philosophy about the image it wishes to present;
- A list of appropriate business attire for both men and women;
- When formal business attire is required;

- Examples of acceptable and prohibited attire (for instance, are sandals or t-shirts permitted on 'dress-down Fridays?'); and
- How the policy will be enforced.

## 2. DON'T Single Out Specific Groups of Employees

Employers are generally permitted under federal law to establish dress codes which apply to all employees or to employees within certain job categories. Keep in mind the following guidelines for employers subject to the [laws enforced by the EEOC](#):

- A dress code must not treat some employees less favorably because of their [national origin](#). For example, a dress code that prohibits certain kinds of ethnic dress, but otherwise permits casual dress, would treat some employees less favorably because of their national origin.
- If a dress code conflicts with an employee's [religious practices](#) and the employee requests an accommodation, the employer must modify the dress code or permit an exception to the dress code unless doing so would result in undue hardship.
- If an employee requests an accommodation to the dress code because of his or her [disability](#), the employer must modify the dress code or permit an exception to the dress code, unless doing so would result in undue hardship.

## 3. DON'T Deduct for Uniforms Unless Net Wages Exceed Minimum Wage

Uniforms present unique challenges for employers. Generally, if an employer requires that employees wear a particular color, such clothing would not be a uniform. However, if a specific type and style of clothing is required or if clothing containing the employer's emblem or logo must be worn at work, such clothing would generally be considered a uniform.

The federal [Fair Labor Standards Act](#) (FLSA) does not allow uniforms to be included as wages. If you require your employees to bear the cost of their uniforms, their wages may not fall below the federal minimum wage of \$7.25 per hour. In addition, the cost of the uniform may not cut into an employee's overtime compensation.

### Additional Information

The [U.S. Small Business Administration](#) offers additional tips for employers related to dress code policies. Be sure to comply with any applicable state-specific laws and consult with an employment law attorney to identify issues that may be unique to your workplace, including the presence of hazards that may require the use of [personal protective equipment](#) such as safety glasses, hard hats, and safety shoes.

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