

From: DMHC Licensing eFiling
Subject: APL 21-001 - Model Notices; Compliance with SB 260
Date: Tuesday January 5, 2021 12:22 PM
Attachments: APL 21-001 - Model Notices; Compliance with SB 260 (1.5.2021).pdf
SB 260 APL Model Notice Template (1.5.2021)

Dear Health Plan Representative,

Please see attached All Plan Letter (APL) 21-001 and Template, regarding model notices and compliance with Senate Bill (SB) 260.

Thank you.

ALL PLAN LETTER

DATE: January 5, 2021

TO: All Full-Service Commercial Health Care Service Plans

FROM: Sarah Ream
General Counsel

SUBJECT: APL 21-001 - Model Notices; Compliance with SB 260 (Hurtado, 2019)

On October 31, 2013, the Department of Managed Health Care (DMHC) issued Director's Letter 14 and Attachment. This All Plan Letter (APL) supersedes and replaces Director's Letter 14 and Attachment, both of which are included with this APL for your reference.

I. Background

The Knox-Keene Health Care Service Plan Act of 1975¹ (Act) requires the DMHC to adopt model notice language health plans may use when communicating with enrollees to comply with various sections of the Act. For example, section 1373.620 directs the DMHC to adopt model notice language for use by health plans to inform enrollees of the availability of coverage through Covered California.

Likewise, section 1366.50, as amended in 2019,² requires a health plan to inform enrollees who cease to be enrolled with the health plan that they may be eligible for reduced-cost coverage through the California Health Benefit Exchange (Covered California) or no-cost coverage through Medi-Cal.³ Additionally, section 1366.50 requires health plans to provide Covered California with information regarding enrollees who cease to be covered by the health plan. That information includes enrollees' names, addresses, and other contact information. Covered California can then use this information to communicate with and inform the enrollees of available coverage options.

¹ Health and Safety Code section 1340, et seq. References herein to "section" are to sections of the California Health and Safety Code.

² Stats. 2019, c. 845 (S.B.260, Hurtado), § 2, eff. Jan. 1, 2020

³ Section 1366.50 does not apply to Medi-Cal Managed Care products.

II. Senate Bill (SB) 260

SB 260 requires health plans to notify enrollees and subscribers that the health plan will provide to Covered California the contact information of individuals who cease enrollment with the health plan.⁴ Enrollees and subscribers may opt out of having the health plan send their information to Covered California.

When enrollees or subscribers cease to be enrolled with a health plan, the health plan must notify them that they may be eligible for reduced-cost coverage through Covered California or no-cost coverage through Medi-Cal. Additionally, the health plan must send the subscribers' and enrollees' names, addresses, and other information to Covered California, unless the subscriber or enrollee previously opted-out.

Finally, beginning no later than July 1, 2021, SB 260 requires Covered California, upon receipt of the information from the health plan, to enroll the individuals who lost coverage into the lowest cost silver plan.

III. Instructions Regarding Model Notices

The attached revised model notices apply to all full-service health plans, as required by the section referenced. The DMHC developed the model notices in consultation with the Department of Insurance, Covered California, and various stakeholder organizations.

Health plans must provide all notices to enrollees within the timeframes specified in the applicable statutes.

Health plans may use the model notices adopted by the DMHC without prior approval by the DMHC, so long as the health plan does not modify the model notice language.⁵ Subject to approval of an Amendment filing, submitted pursuant to section 1352, the DMHC may permit non-substantive modifications to the model notice language when necessary and appropriate to advise affected enrollees of their rights under specific health plan contracts.

A. Instructions for Model Notices Pursuant to Section 1373.620

From the options at the beginning of the template model notice, the health plan should select the introductory paragraph appropriate for the target population, as specified in the appropriate statute. The notice provided to an enrollee should contain only the appropriate introductory statement from the available options listed. No inapplicable options should appear in the notice sent to an enrollee.

⁴ SB 260 applies to health plans providing individual or group health care coverage. This does not include Medi-Cal plans. However, by its terms, SB 260's notice requirements do not apply to specialized health plan products or Medicare supplement products.

⁵ Section 1373.620 (c).

The template model notice contains introductory language options specific to the following scenarios and statutes:

- Section 1366.50 (AB 792, Bonilla, Ch. 851, Stats. 2012): provided when an enrollee or subscriber ceases to be enrolled in coverage.
- Section 1373.620(a) (AB 1180, Pan, Ch. 441, Stats. 2013): provided to a subscriber of non-grandfathered conversion coverage from a health plan that does not otherwise issue individual health plan contracts (conversion “lookalike” product) at least 60 days prior to the health plan renewal date.
- Section 1373.620(b) (AB 1180, Pan, Ch. 441, Stats. 2013): provided to a subscriber of HIPAA or conversion coverage from a health plan that issues other products in the individual market at least 60 days prior to the health plan renewal date.
- Section 1373.622 (AB 1180, Pan, Ch. 441, Stats. 2013): provided to enrollees of Guaranteed Issue Pilot program health plan contracts terminating 1/1/2014.
- Section 1373.622 (AB 1180, Pan, Ch. 441, Stats. 2013): provided to enrollees of Guaranteed Issue Pilot program health plan contracts not terminating.
- Section 1399.861(SBX1 2, Hernandez, Ch.2, Stats. 2013): provided annually to subscribers of grandfathered health plans in the individual market.

After making the appropriate introductory language selection, insert the body text that appears within the template model notice. The body text is deemed by DMHC to comply with the statutes listed above. When including the body text, the health plan must ensure to delete and replace language located within brackets as instructed in the template. All notices must be printed in at least 12-point font, unless otherwise specified in statute.⁶

B. Instructions Specific to Section 1366.50, as Amended by SB 260

Health plans must provide enrollees or subscribers who cease to be covered by the health plan with notice that the enrollee or subscriber may be eligible for reduced-cost coverage through Covered California or no-cost coverage through Medi-Cal.

Additionally, health plans subject to section 1366.50 must annually notify their enrollees and subscribers that if the enrollee or subscriber ceases to be enrolled in coverage, the health plan will provide the enrollee’s or subscriber’s name, address, and other contact information to Covered California so the enrollee or subscriber may obtain coverage. The health plan must allow the enrollee or subscriber to opt out of the plan giving Covered California the enrollee’s or subscriber’s information.

⁶ Sections 1366.50; 1373.620, subd. (a) and (b); 1373.622, subd. (a)(2)(B).

Notwithstanding an enrollee's right to opt out of the health plan providing information to Covered California, if the enrollee is in a Medi-Cal product, the California Department of Health Care Services (DHCS) must provide the enrollee's information to Covered California.

C. Instructions Specific to Model Notices Pursuant to Section 1399.829

To satisfy the requirements of section 1399.829, the health plan must provide the "Health Care Changes for your Children" notice adopted in this APL. The health plan may not substantially modify any part of the model notice without the DMHC's prior written approval. The notice must be provided pursuant to section 1399.829 must be provided in at least 14-point font.⁷

For questions regarding this APL, please contact your plan's assigned Licensing Counsel.

⁷ Section 1399.829, subd. (g)(2).

*[Model Notice template for compliance with
HSC §§ 1366.50, 1373.620(a), 1373.620(b), 1373.622, and
1399.861 (12pt font).]*

Your Health Insurance Choices Are Different. You May Qualify for Free or Low-Cost Health Insurance.

*[Select the appropriate introductory paragraph.
Replace language inside < > brackets as appropriate, including changes
to telephone numbers. Delete instructive language inside [] brackets.
Delete [] and < > brackets.]*

[HSC 1366.50 (AB 792) – to enrollee or subscriber who ceases to be enrolled]
You have different health insurance choices that may save you money.

***[HSC 1373.620(a) (AB 1180) – to subscriber of conversion coverage from a health plan
that does not otherwise issue individual health care service plan contracts]***
As of your renewal date, your current policy will not be renewed. You have different
health insurance choices that may save you money.

***[HSC 1373.620(b) (AB 1180) – to subscriber of HIPAA or conversion coverage, when
health plan offers other individual health care service plan contracts in the individual
market]***

As of your renewal date, your current policy will not be renewed. You have different
health insurance choices. You can stay with <insert name of health plan>. You also
have other choices. These may save you money.

Below we have identified the health insurance policy we are offering for <insert plan
year> that is most similar to your current policy. If you wish to stay with <insert name
of health plan>, you can continue your coverage by paying the premium stated
below by the due date. <Insert information regarding the health plan's most
comparable individual health plan contract, applicable premium, and due date for
continuing coverage.>

[HSC 1373.622 (AB 1180) – GIP plans terminating 1/1/2014]
As of <date>, your current health insurance coverage will end. Because of changes
in federal law, you have different health insurance choices that may save you money.

[HSC 1373.622 (AB 1180) – GIP plans not terminating]
You have different health insurance choices. You can stay with <insert name of
health plan>. You also have other choices. These may save you money.

***[HSC 1399.861(SBX1 2) – annual notice to subscribers of individual grandfathered
plans]***
New improved health insurance options are available in California. You currently have
health insurance that is not required to follow many of the new laws. For example, your
plan may not provide preventive health services without you having to pay any cost
sharing (copayments or coinsurance). Also, your current plan may be allowed to

increase your rates based on your health status while new plans and policies cannot.

You have the option to remain in your current plan or switch to a new plan. Under the new rules, a health plan cannot deny your application based on any health conditions you may have. For more information about your options, please contact Covered California at <1-800-300-1506>, the Office of Patient Advocate at <1-866-466-8900>, your plan representative or insurance agent, or an entity paid by Covered California to assist with health coverage enrollment such as a navigator or an assister. You can also continue reading for more information.

[HSC 1366.50 (SB 260) – annual notice to enrollees with individual or group health care coverage]

California Law requires [plan name] to notify you every year that we will provide your information, including [information to be determined] to Covered California if you end your health care coverage with us. Covered California will use this information to help you obtain other health coverage. If you do not want to allow [plan name] to share your information with Covered California, you may opt out of this information sharing. If you do not want us to share your information with Covered California, contact [plan name/us] at [telephone number, mailing address, other means of contact] [by date/within number of days] to opt out of this information sharing. Thank you.

[HSC 1366.50 (SB 260) – Notice regarding Medicare Enrollment to enrollees or subscribers who cease to be enrolled]

If you are eligible for the Medicare Program you should examine your options carefully, as delaying Medicare enrollment may result in substantial financial implications. You can obtain enrollment advice or enroll in Medicare in the following ways: (insert applicable contact information for Social Security Administration)

Insert the following body text.

If necessary, replace open enrollment dates. For notices sent on or after March 31, 2014, replace the <> bracketed text with the dates specified in 45 CFR § 155.410(e).

You cannot be denied health insurance because you have health problems or a pre-existing condition. There are new options for low cost or free health insurance for you or your dependents.

Covered California

You can buy health insurance through Covered California. The State of California set up Covered California to help people and families, like you, find affordable health insurance. You can use Covered California if you do not have insurance through your employer, or Medicare. You can also apply for Medi-Cal through Covered California.

You must apply during an open or special enrollment period, except a Medi-Cal application can be made at any time. Open enrollment begins on <insert applicable Open Enrollment date> and ends on <insert applicable Open Enrollment end date>. If you have a life change such as marriage, divorce, a new child or loss of a job, you can

apply at the time the life change occurs (“special enrollment period”).

Through Covered California, you may also get help paying for your health insurance:

- Receive tax credits: You can use your tax credit to help pay your monthly premium.
- Reduce your out of pocket costs: Out-of-Pocket costs are how much you pay for things like going to the doctor or hospital or getting prescription drugs.

To qualify for help paying for insurance, you must:

- Meet certain household income limits; and
- Be a U.S. Citizen, U.S. national or be lawfully present in the U.S.
- In addition, other rules and requirements apply.

You can also buy coverage directly from health insurers, health plans or insurance agents during Open Enrollment and Special Enrollment periods, but the financial help is available only if you select a Covered California product.

Medi-Cal Is Changing Too

Free or low-cost health insurance is available through Medi-Cal. Medi-Cal is California’s health care program for people with low incomes.

Your eligibility is based on your income. It is not based on how much money you have saved or if you own your own home. You do not have to be on public assistance to qualify for Medi-Cal. You can apply for Medi-Cal anytime.

To qualify for Medi-Cal if you are over 65, disabled or a refugee, other rules and requirements apply. You may also qualify for health insurance with Medi-Cal even if you are not a U.S. citizen or national.

For More Information

To learn more about Covered California or Medi-Cal, visit www.CoveredCA.com or call <1-800-300-1506>. When you apply for coverage through Covered California, you will find out if you are eligible for Medi-Cal. You can also get more information or apply for Medi-Cal by calling 1-800-430-4263, visiting www.benefitscal.org or www.beneficioscal.org (Spanish) online, or visiting your county human services office in person.

[Model Notice for compliance with Section 1399.829: Application for or renewal of individual coverage for children under Article 11.7 (14pt font)]

Health Care Changes for Your Children

Because of changes in federal and state law, new health insurance choices may be available for your child(ren). The health insurance your child has today may be changing. These changes may save you money. Please consider your options carefully before failing to maintain or renewing coverage for a child for whom you are responsible. If you attempt to obtain new individual coverage for your child, the premium for the same coverage may be higher than the premium you pay now.

Covered California

The State of California set up Covered California to help people like you and your children find affordable health insurance. Through Covered California, you may also get help paying for your health insurance. You may be eligible for tax credits to help pay your child's monthly premiums. Financial help also may be available for other costs, such as co-payments for visiting a doctor or getting prescription drugs. To qualify for help paying for insurance, you must:

- Have a household income below certain limits; and
- Be a U.S. Citizen, U.S. national or be lawfully present in the U.S.
- In addition, other rules and requirements apply.

To see if you qualify for premium assistance for your child, please contact Covered California by phone at 1-800-300-1506, or online at CoveredCA.com.

You can also apply for Medi-Cal for yourself or your child through Covered California.

Covered California will accept applications every year during "**Open Enrollment**," except a Medi-Cal application can be made at any time. For coverage **beginning in <insert year>**, the Open Enrollment period is **<insert Open Enrollment date>** through **<insert Open Enrollment end date>**. Health plans and insurers cannot deny your child health insurance because of health problems or pre-existing conditions.

"**Special Enrollment**" periods are available after certain events, such as the loss of a job, death of a spouse, or birth of a child. To see if your child qualifies for these or any other special enrollment period, please contact Covered California.

You can also buy coverage for your child directly from health insurers, health plans, or insurance agents during Open Enrollment and Special Enrollment periods, but the financial help is available only if you select a Covered California product.

You can apply for coverage for your child during Open Enrollment, even if your child already has other health coverage. Buying coverage during Open Enrollment will not affect the coverage your child has now. You will still be billed for any premiums until you choose to cancel your child's current coverage. If you buy new coverage for your child, you should consider keeping your child's current coverage until your child's new coverage begins. If you want to cancel your child's current coverage, you must contact your health plan or insurer.

Medi-Cal

Free or low-cost health insurance is available through Medi-Cal for many low income individuals. Medi-Cal provides free comprehensive health care coverage across the state. You can apply for Medi-Cal at any time. Your child can get Medi-Cal if your income is low.

Your child may qualify for Medi-Cal if he or she is disabled or a refugee, but other rules and requirements apply.

To learn more about Covered California or Medi-Cal, visit www.CoveredCA.com or call <1-800-300-1506>. When you apply for coverage through Covered California, you will find out if you are eligible for Medi-Cal. You can also get more information or apply for Medi-Cal by calling 1-800-430-4263, visiting www.benefitscal.org or www.beneficioscal.org (Spanish) online, or visiting your county human services office in person.