



EMPLOYEE BENEFITS

Kutak Rock Legal Alert

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## New Illinois Disclosure Requirement for Health Plans

December 9, 2021

Earlier this year, Illinois passed the Consumer Coverage Disclosure Act (CCDA), which imposes new health plan-related disclosure requirements on all employers. The disclosure is designed to compare an employer's group health plan coverage to the essential health benefit required by the State for certain types of plans. Read the [essential health benefits and sample disclosure](#).

While there is an argument that ERISA preempts the CCDA—and that the law therefore does not apply to employers with self-insured group health plans—this issue has yet to be litigated. The Illinois Department of Labor is taking the position that the CCDA applies to all Illinois employers regardless of their plan's insured/self-insured status. Thus, we currently recommend working with your broker or third-party administrator to complete and distribute the disclosure.

### ***Who is an employer?***

Any individual, partnership, corporation, business, trust, person or entity that employs employees in Illinois, including the state and local governments.

### ***Who is an employee?***

Any individual permitted to work by an employer.

### ***When is disclosure required?***

Disclosures must be provided to employees who are eligible for health insurance coverage: (i) upon hire; (ii) annually thereafter; and (iii) upon request.

### ***How can disclosure be provided?***

Disclosures may be sent via email or listed on a website that an employee is able to regularly access. Mail and hand delivery are also acceptable.

### ***What are the penalties for noncompliance?***

The Department of Insurance will first give employers a warning and 30 days to comply with the law. After that, the Department will impose a penalty. For employers with four or more employees, the penalties range from \$1,000 to \$5,000 per offense.

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***What if an employer's plan does not provide all the essential health benefits?***

The CCDA does not impose coverage requirements and there are no penalties if a group health plan does not provide these types of benefits. Instead, the CCDA requires that an Illinois employer provide its employees with a document comparing its group health plan benefits to the State's essential health benefits.

If you have questions about the CCDA, contact a member of Kutak Rock's [Employee Benefits Practice Group](#)

