

# Denial Notice Guidance for Non-Federal Governmental Health Plans

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The ERISA private right of action under section 502(a) is not available to participants or beneficiaries of non-federal governmental plans. However, the Patient Protection and Affordable Care Act requires non-federal governmental health plans to comply with the Department of Labor's claims procedure regulation and new model notices, including providing information on the ERISA private right of action under section 502(a). The U.S. Department of Health and Human Services recently issued an enforcement safe harbor pursuant to which the HHS will not enforce the requirement that non-federal governmental plans provide notice of the ERISA private right of action or provide contact information for the Employee Benefits Security Administration or a State Department of Insurance (unless the plan is fully-insured or such department otherwise provides assistance to such participants). However, such plans must provide other contact information for assistance provided by the plan and either the contact information for the state's Consumer Assistance Program or the Department of Health and Human Services Health Insurance Assistance Team. This only applies to non-federal governmental health plans, such as those maintained by state municipalities and school districts. The technical guidance can be found [here](#).