

NEW CHIP NOTICE REQUIREMENTS FOR EMPLOYERS

On February 4, 2010, the Department of Labor (DOL) issued a model notice under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The model notice describes the rights of low income participants in employer-sponsored group health plans to receive financial assistance toward payment of children's premiums from state-sponsored programs. The notice also informs employees that they have a special right to enroll in the employer's group health plan within 60 days of being determined eligible for CHIP premium assistance.

CHIP Notice - Timing

Group health plans providing benefits in states that sponsor CHIP premium assistance programs must provide the new notice to employees by the later of: (1) May 1, 2010, or (2) the first day of the next plan year starting after February 4, 2010:

- If a plan's next plan year begins after February 4, 2010 and before May 1, 2010, the CHIP notice must be provided by May 1, 2010.
- For all other plans, the notice must be provided by the first day of the next plan year. For calendar year plans, the notice must be provided by January 1, 2011.
- In future plan years, the CHIP notice must be provided at least annually.

CHIP Notice – Model Notice

The DOL model notice is intended to inform employees of opportunities to receive premium assistance under CHIP. The notice must be provided to all employees eligible for the employer's group health plan who reside in a state in which CHIP premium assistance is available. The state in which the employee resides may or may not be the same as the state in which the employer, the employer's principal place of business, the health plan, its insurer, or other service providers are located. Even if the employer is located in a non-covered state, if it has employees residing in a covered state, it must provide the CHIP Notice.

Employers may provide the notice to employees separately, or along with other information, i.e., materials informing employees of their health plan eligibility or open enrollment opportunities, as long as the notice appears separately and in a manner which ensures that an employee could reasonably be expected to appreciate its significance. Employers may send the notice by first class mail or, if the employer complies with the DOL's electronic disclosure rules, electronically. The electronic disclosure rules require, among other things, that the employee receiving the notice must use the employer's electronic system as an integral part of his or her job.

The model CHIP notice lists every state in which CHIP premium assistance is available, as of January 22, 2010. If desired, an employer may customize the model notice by deleting information about states in which no employees eligible for the plan reside. An employer without multi-state issues could also modify the model CHIP Notice to provide more state specific information.

Employers may wish periodically check each covered state's web site and compliance assistance materials to determine whether other disclosures are appropriate (in addition to the general/model CHIP Notice). The DOL expects to update its web site with other

compliance information on an annual basis, so employers should also periodically check the DOL's web site.

CHIP Background

In 1997, Congress established the State Children's Health Insurance Program (SCHIP) under Title XXI of the Social Security Act. SCHIP enabled states to provide health insurance to targeted low-income children with no coverage in families with income that is above the level of eligibility for Medicaid. All states and the District of Columbia have Title XXI programs.

In February 2009, the President signed CHIPRA, which provides continued funding for SCHIP and makes various other changes to the program, now known as CHIP. Some of these changes affect employer-sponsored group health coverage.

Premium Assistance Under CHIP

Effective April 1, 2009, CHIPRA enables states to offer a premium assistance subsidy for qualified employer-sponsored coverage to targeted low-income children. This does not include benefits provided under a flexible spending arrangement or a high-deductible health plan.

Other CHIP Provisions

In addition to the notice requirement described above, CHIP also requires group health plans to offer special enrollment rights and imposes new reporting requirements on group health plans. Group health plans will be required to disclose to state governments, upon request, detailed information describing the benefits available under the plan when it covers employees or dependents that are also covered by CHIP or Medicaid. State governments may not request this information until a model coverage coordination disclosure form has been developed and regulations have been issued in connection with it.