Model Employer CHIP Notice Updated

May 27, 2014

A state Children's Health Insurance Program (CHIP) generally provides health insurance for children whose families cannot afford private health care but do not qualify for Medicaid. The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) expanded CHIP coverage by providing additional special enrollment rights related to group health plan coverage. CHIPRA also permits states to offer eligible low-income children and their families a premium assistance subsidy to help pay for employer-sponsored group health coverage, and imposes notice and disclosure obligations for employers that maintain group health plans.

If an employer’s group health plan covers residents in a state that provides a premium subsidy, the employer must send an annual notice about the available assistance to all employees residing in that state (the Employer CHIP Notice).

The Department of Labor (DOL) has issued a model notice that employers can use to comply with CHIPRA. This model notice was updated on May 2, 2014, to include information on the Affordable Care Act’s health insurance Exchanges, or Marketplaces.

GENERAL CHIPRA REQUIREMENTS

CHIPRA created additional special enrollment rules for group health plans, effective April 1, 2009. These rules permit employees and dependents to enroll in an employer’s group health plan when they:

- Lose eligibility under a Medicaid plan or CHIP; or
- Become eligible for a premium assistance subsidy under a Medicaid plan or CHIP.

CHIPRA also added notice requirements for employers that maintain group health plans in states that provide premium assistance subsidies under a Medicaid plan or CHIP. These employers must notify their employees in writing of the potential opportunities available for premium assistance. Employers that fail to send the required notices may be subject to penalties of $100 per day.

PREMIUM ASSISTANCE SUBSIDIES

States may offer eligible low-income children and their families a premium assistance subsidy to help pay for employer-sponsored coverage. These states may choose to pay the subsidy as a reimbursement to an employee for out-of-pocket expenses or directly to the employer. Employers may choose to opt out of being directly paid a premium assistance subsidy on behalf of an employee.

As of Jan. 31, 2014, 38 states offer some type of premium assistance subsidy.

USING THE MODEL EMPLOYER CHIP NOTICE

Employers may use the model notice as a national notice for meeting their obligations under CHIPRA. Employers could also choose to prepare their own notices, or modify the model notice. For example, an employer may want to provide more comprehensive information regarding states where it has a larger workforce or leave out information about states where no employees reside. Employers should be sure to include at least the minimum relevant state contact information for any employee residing in a state with premium assistance.
The information in the model notice is up to date as of Jan. 31, 2014. The DOL will update the model notice each year to reflect any changes in the number of states offering premium assistance programs, as well as the contact information for those states.

**DEADLINES FOR PROVIDING THE NOTICE**

The notice must be provided, free of charge, on an annual basis. The first notice was required to be provided by the first day of the first plan year after Feb. 4, 2010, or May 1, 2010, whichever was later. Employers with calendar year plans were required to provide the first notice by Jan. 1, 2011.

**DELIVERY OF THE NOTICE**

The Employer CHIP Notice does not have to be provided in a separate mailing. Plans may combine the annual notice with other plan materials, such as open enrollment packets or summary plan descriptions, if:

- The materials are provided to all employees entitled to receive the Employer CHIP Notice; and
- The Employer CHIP Notice is a separate document so that employees can appreciate its significance.

The notice must be provided in writing in a manner calculated to be understood by the average employee. It may be provided by first-class mail or electronically if DOL electronic disclosure requirements are satisfied.

**MORE INFORMATION**

A copy of the updated model notice is available on the DOL’s website in [English](#). The DOL is working on developing a Spanish version of the updated model notice.

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This Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.