

# Children's Health Insurance Program Reauthorization Act of 2009

The Department of Labor, Employee Benefits Security Administration (EBSA) has released a model notice form for use by employers to inform employees of the availability of premium assistance under a state Medicaid program or Children's Health Insurance Program (CHIP). Information on the notice requirements and the model notice form are attached. As discussed below, the notice requirements are effective for group health plans for plan years on or after February 4, 2010.

## **Background on the Notice Requirements**

On February 4, 2009, President Obama signed the "Children's Health Insurance Program Reauthorization Act of 2009" (CHIPRA) into law (Pub. Law No. 111-3). Section 301 of CHIPRA allows individuals who may be eligible for premium assistance under a state Medicaid program or CHIP to enroll in the group health plan during a special enrollment period (i.e., qualified individuals or their dependents may enroll in coverage outside of the annual open enrollment period).

In addition, employers must notify individuals of their CHIPRA enrollment rights if the state in which the individual resides provides premium assistance. According to the EBSA notice released today, 40 states offer one or more qualified premium assistance programs.

Employers are required to provide notices by the later of: (1) the first day of the first plan year after February 4, 2010; or (2) May 1, 2010. The EBSA notice indicates that the following implementation dates are applicable to employers with respect to the notice:

- For plan years beginning between from February 4, 2010 through April 30, 2010, the notice must be provided by May 1, 2010.
- For plan years beginning on or after May 1, 2010, the notice must be provided by the first day of the next plan year (January 1, 2011 for calendar year plans).

We have attached the model notice. It is also available at <http://www.dol.gov/ebsa>. We recommend that employees distribute the model notice as is to all employees. Depending on your ERISA plan year and your deadline for releasing the notice you may want to send this out as part of your open enrollment communications.

The model notice may be included with other items (e.g., open enrollment materials), but should be provided "separately and in a manner which ensures that an employee who may be eligible for premium assistance could reasonably be expected to appreciate its significance." The Model CHIP Notice does not replace your notice of special enrollment rights normally given in connection with open enrollment.

We are still waiting for the publication of another model form related to CHIPRA. A work-group with members from government and the private sector is creating a model disclosure form that a state can send an employer to get details of available health coverage. A state may provide a premium assistance subsidy either as reimbursement to an employee for out of pocket expenditures or directly to the employer, although an employer may opt-out of direct payment.

If you have any questions please don't hesitate to contact us.



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