



Dave Hock
Corporate Communications
2000 Alameda de las Pulgas, Suite 101
San Mateo, CA 94403
650.295.4608
dhock@edgewoodins.com
www.edgewoodins.com



Compliance alert

Employer CHIP Notice Requirements

February 18, 2010

The Department of Labor (DOL) recently released a model notice to assist employers in complying with requirements of the Children's Health Insurance Program Reauthorization Act (CHIPRA). Employers are required to provide notices to inform employees that their state's Medicaid or CHIP program may offer premium assistance for health coverage. Called the "Employer CHIP Notice", employers can use the DOL model notice nationwide thus avoiding the need to customize notices for employees in different states. (Currently 40 states, including California, have premium assistance programs.)

Background

CHIPRA, enacted February 2009, included two requirements impacting employer's group health plans. The first requirement took effect for all plans effective April 1, 2009 and is referred to as the *special enrollment requirement*. Specifically, group health plans must offer 60-day special enrollment opportunities for employees and dependents who:

- Lose eligibility for coverage under a state's Medicaid or CHIP program, or
- Become eligible for premium assistance under a state Medicaid or CHIP program.

The second CHIPRA requirement is referred to as the *notice requirement*. Plan sponsors (employers) must notify employees of their potential CHIPRA rights by May 1, 2010 or, if later, the first day of the next plan year following February 4, 2010. For instance, calendar year plans must comply with the CHIPRA notice requirement by January 1, 2011. The delayed effective date has allowed time for the DOL to release its model notice, and the timeframe enables most employers simply to include the CHIPRA notice with their next "open enrollment" communications.

(CHIPRA also will require employers to provide plan information to a state's Medicaid or CHIP program if requested. This last requirement will not take effect until late 2010 or 2011, depending on when the DOL or other agency develops forms or procedures.)

Action Steps for Employer CHIP Notice

Model Notice: The DOL's model "[Employer CHIP Notice](#)" is available at www.dol.gov/ebsa. A copy is attached here. The notice must be provided free of charge to employees residing in any state that offers premium assistance under Medicaid or CHIP (regardless of whether the employee is enrolled in the employer's plan). Employers can use any notice that includes all the required content, but for administrative convenience, employers are advised to use the DOL model notice and provide it to all employees nationwide.

Distribution: The notice does not require a separate mailing. Employers may include the notice with other material (e.g., annual and new hire enrollment material or SPDs) provided that the notice appears separately in a manner that ensures that employees could "reasonably be expected to appreciate its significance". Employers may use first-class mail. Electronic delivery is permitted if it is in accordance with the DOL's electronic distribution safe harbor.

Deadline: The notice must be provided by May 1, 2010, or if later, the start of the next plan year following February 4, 2010. For calendar year plans, the deadline is January 1, 2011. The notice will be required annually. The DOL has indicated it will update its model notice from time to time.

This ALERT is offered for general informational purposes only. It does not provide, and is not intended to provide, tax or legal advice.