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March 2010

The U.S. Department of Labor has released the Employer Children's Health Insurance Program (CHIP) Notice to assist employers with notice requirements related to opportunities for premium assistance under state Medicaid and Children's Health Insurance Programs as imposed under CHIPRA.

Employer CHIP Notice Will Assist Employers' Compliance with CHIPRA

By Steven J. Friedman

The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) released the model Employer CHIP Notice on February 9, 2010. The Notice, as required under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), is intended to assist employers with notifying employees about possible opportunities for premium assistance and receiving medical coverage under an employer's group health benefit plan. For background on CHIPRA, please see Littler's April 2009 ASAP, *Effective Date of New Special Enrollment Period Under CHIPRA Arrives*.

Notice Content

The Employer CHIP Notice, as it has been dubbed, is designed to convey to employees basic information about premium assistance programs through Medicaid or state Children's Health Insurance Programs in certain specific states. The notice is intended to provide information about the availability of premium assistance, a Health Insurance Portability and Accountability Act (HIPAA) special enrollment right that may be triggered by eligibility for premium assistance, and a list of contact information for specific state Medicaid and CHIP agencies, current as of February 2010. The EBSA intends to update the model notice annually so as to keep the contact information accurate. The notice may be found at the Department of Labor's website.

Effective Dates

The Employer CHIP Notice must be provided by: (1) May 1, 2010 for plan years that begin between February 4, 2010 and May 1, 2010; or (2) the first day of the plan year after May 1, 2010 (January 1, 2011 for calendar year plans).

Distribution and Timing Requirements

The notice must be sent to all employees who reside in states that offer premium assistance programs through Medicaid or CHIP, regardless of their enrollment status.

An employer is subject to the notice requirement if it provides medical coverage to employees who reside in such states, without regard to the employer’s location. The notice must be provided automatically and free of charge on an annual basis. The notice may be distributed with annual enrollment and new hire packages ahead of the effective date in the same manner as other annual notices such as the Women’s Cancer Rights Act.

Comments Requested

The EBSA has requested public comments on the model notice. Comments are due on April 5, 2010 and should be directed to: the Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Room N-5653, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Employer CHIP Notice, or to E-OHPSCA.EBSA@dol.gov.

Employer Action

Employers should begin preparations for compliance with the notice requirements as soon as possible. Action items include:

1. Determine whether your group health benefit plans are subject to the notice requirement by surveying your employee pool to determine if any employees reside in a state with Medicaid or CHIP opportunities.
2. Determine the deadline for giving notice based on the effective dates outlined above.
3. Consider incorporating the notice into all new hire and open or annual enrollment materials to satisfy the annual distribution requirement, even if this distribution is well ahead of the statutory deadline.
4. Work with legal counsel to tailor the model notice to fit your specific circumstances.

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Steven J. Friedman is a Shareholder in Littler Mendelson’s New City office, and Andrea Jackson is an Employee Benefits and Legal Compliance Specialist in Littler Mendelson’s Dallas office. If you would like further information, please contact your Littler attorney at 1.888.Littler, info@littler.com, Mr. Friedman at sfriedman@littler.com, or Ms. Jackson at ajackson@littler.com.