

# CLIENT ALERT

Brought to you by:



On February 4, 2009, President Obama signed the **Children's Health Insurance Program Reauthorization Act of 2009 (CHIP)**. The purpose of CHIP is to assist low income individuals with the cost of medical insurance for children.

**About Children's Health Insurance Program Reauthorization Act of 2009 (the Act)** – The act invests an additional \$35 billion over the next 5 years to lower the number of uninsured children. This goal will be accomplished by the additional funding and providing incentives to states to reach out to the currently uninsured but eligible children to enroll them in either CHIP or Medicaid.

The Act also amends the Employee Retirement Income Security Act of 1974 (ERISA) to provide for special enrollment rights, new notice and disclosure obligations, and penalties for non-compliance.

## **SPECIAL ENROLLMENT RIGHTS**

Beginning **April 1, 2009**, group health plans are required to allow employees and dependents who are “eligible but not enrolled for coverage” under an employer plan to enroll in two new circumstances which are:

- 1) The employee's or dependent's Medicaid or CHIP coverage is terminated as a result of loss of eligibility;
- 2) The employee or dependent becomes eligible for a state premium assistance subsidy under Medicaid or CHIP

In either situation, the employee or dependent must request the change within 60 days after the new qualifying event. **Note** – current qualifying events under

HIPAA only have a 30 day window. Plan documents should be reviewed and, if necessary, amended to reflect these new rules.

### **PREMIUM ASSISTANCE**

Under the Act, states may elect to provide premium assistance subsidies to low-income employees to cover CHIP eligible children under a qualified employer-sponsored plan. To be considered “qualified” the employer must contribute at least 40% towards the monthly premium. FSAs and high deductible health plans are excluded from the premium assistance.

The Subsidy can be provided as either a reimbursement to the employee or a direct payment to the employer. The employer may “opt-out” of receiving the direct payment, and may require the employee to be reimbursed.

### **NOTICE TO EMPLOYEES**

Employers that maintain group health plans in states that provide medical assistance under a state Medicaid or CHIP plan must provide state-specific notices to each employee about the premium assistance option. The Notice will contain information regarding the availability of the premium assistance for group health coverage.

The Notice may be given as part of an Annual Open Enrollment packet, an Initial Hire packet, or with the Summary Plan Description. The Departments of Labor and Health and Human Services have been directed to issue a model notice by February 4, 2010. Employers must comply with this notice requirement beginning with the first plan year after the model notice is issued.

### **DISCLOSURE TO STATES**

Upon a states request, plan administrators will be required to disclose information about their plans. This will help the states determine the cost-effectiveness of providing the subsidy. The Department of Labor and the Department of Health and Human Services have the responsibility to develop a model disclosure form for plan administrators to use. States may not request plan information until the first plan year after the date on which the model form is issued. The model disclosure form will request information such as eligibility information, contact information for the Plan Administrator, benefits offered under the group health plan, information regarding premiums and cost-sharing, and any other necessary information.

**Penalty for Non-Compliance.** The law permits the DOL to assess a penalty of up to \$100 a day for failure to comply with the notice and disclosure requirements. The \$100 penalty applies for each violation per participant or beneficiary

HELPFUL LINKS REGARDING THE STATE CHILDREN'S INSURANCE PROGRAMS (SCHIP)

<http://cms.hhs.gov/schip/>

[www.cms.hhs.gov/medicaid/allstatecontacts.asp](http://www.cms.hhs.gov/medicaid/allstatecontacts.asp)

[www.insurekidsnow.gov/states.htm](http://www.insurekidsnow.gov/states.htm).

**DISCLAIMER** - *This e-mail and the suggested website links are informational only and are not meant to advise you of your entire obligation under the Children's Health Insurance Program Reauthorization Act of 2009. This information is provided as an informational service to our clients and is not considered insurance, legal or tax advice. If you would like more information, please do not hesitate to contact our office or your legal counsel.*