

New Model CHIP Notice

For more information regarding this or any other employment-related issue, please contact your Vorys attorney or a member of the Vorys Labor and Employment Group by calling 614.464.6400.

The Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA) created two new kinds of special enrollment rights. Specifically, CHIPRA gives an employee (or employee and dependents) the right to enroll in your medical plan within a 60-day window after:

1. losing eligibility for Medicaid or the Children’s Health Insurance Program (CHIP); or
 2. becoming eligible for premium assistance under Medicaid or CHIP.
- If an employee becomes eligible for premium assistance under Medicaid or CHIP, that program can pay – or reimburse an employee for – the employee’s share of the cost of participating in your medical plan.

On February 4, 2010, the Department of Labor (DOL) published a model notice (the Model CHIP Notice, available at <http://www.dol.gov/ebsa/>) that describes premium assistance that may be available under Medicaid and CHIP. The Model CHIP Notice lists contact information for agencies in 40 states that, as of January 22, 2010, have a Medicaid and/or CHIP program with the potential to provide premium assistance. These states are:

Alabama	Alaska
Arizona	Arkansas
California	Colorado
Florida	Georgia
Idaho	Indiana
Iowa	Kansas
Kentucky	Louisiana
Maine	Massachusetts

Minnesota	Missouri
Montana	Nebraska
Nevada	New Hampshire
New Jersey	New Mexico
New York	North Carolina
North Dakota	Oklahoma
Oregon	Pennsylvania
Rhode Island	South Carolina
Texas	Utah
Vermont	Virginia
Washington	West Virginia
Wisconsin	Wyoming

Ohio is one of the 10 states not currently on the list. The Model CHIP Notice directs employees to check with the DOL or the Centers for Medicare & Medicaid Services to see if other states have implemented premium assistance programs since January 22, 2010, and to contact the appropriate State agency if they think that they or their children might be eligible for Medicaid or CHIP.

If you have employees who reside in one or more of these states, you need to provide the first Model CHIP Notice by the later of (1) the first day of the first plan year after February 4, 2010; or (2) May 1, 2010. The deadline is January 1, 2011 for calendar year plans and May 1, 2010 for plans operating on a plan year starting between February 4, 2010 and April 30, 2010. Thereafter, the Model CHIP Notice should be provided annually. Employers should check the DOL’s website for annual updates to the Model CHIP Notice.

While Medicaid and CHIP premium assistance is only available to benefits-eligible employees, it appears that the Model CHIP Notice is to be sent to all

employees who reside in listed states regardless of whether they are eligible for your medical plan. We hope for clarification on this point. You also have the option to simply send the Model CHIP Notice to all employees regardless of residence.

The Model CHIP 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 workgroup 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.

In other news...

Regulations interpreting the Mental Health Parity and Addiction Equity Act were published February 2, 2010. The regulations will apply to plan years beginning on or after July 1, 2010 (January 1, 2011 for calendar-year plans), with a special effective date for collectively bargained plans. Since the regulations may require further redesign of mental health and substance abuse benefits for 2011, the regulations will be the subject of a future Vorys Labor and Employment Alert.

We’re watching for yet another extension of eligibility for the COBRA premium subsidy.

This client alert is for general information purposes and should not be regarded as legal advice.