

Client Alert

February 27, 2009

New Obligations Imposed on Group Health Plan Sponsors**Areas of Interest****Employee Benefits &
Executive Compensation****United States**

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIP), enacted on February 4, 2009, imposes significant new obligations on sponsors of group health plans. The law expands health insurance coverage assistance made available to certain low-income individuals, and it also expands the groups of individuals who may be eligible for assistance.

Special Enrollment Rights Expanded

Under current law, group health plans generally must provide a 30-day special open enrollment window to certain employees, and their dependents, who are eligible for coverage under the plan but who previously declined coverage due to coverage under another health plan. In addition to the existing special open enrollment rights, under CHIP, the following special open enrollment periods must be provided for persons who are otherwise eligible for coverage under the group health plan:

- A special 60-day open enrollment period for employees or their dependents who are covered under a Medicaid plan or a state child health plan and whose coverage under such plan is terminated as a result of loss of eligibility for the coverage.
- A special 60-day open enrollment period for employees or their dependents who become eligible for a premium assistance subsidy under Medicaid or a state child health plan with respect to coverage under the employer's group health plan.

The employee, or dependent, is required to request coverage under the employer's group health plan during the CHIP special open enrollment period, which begins on the date of loss of coverage under the Medicaid plan or state child health plan, or the date on which the employee or dependent is determined to be eligible for a premium assistance subsidy, as the case may be.

Notice Obligations Imposed on Plan Sponsors

CHIP will allow states to offer premium assistance subsidies for qualified employer-sponsored coverage to eligible low-income individuals. Employers that sponsor group health plans in states that elect to provide such subsidies must distribute an annual written notice to employees residing in that state to inform them of the availability of opportunities for assistance.

The Secretary of Labor is required to issue national and state-specific model notices for this purpose no later than February 4, 2010 (one year after CHIP was enacted). Employers will be required to provide the notice for the plan year that begins on or after the model notices are issued. The notice may be provided concurrently with the following:

- Materials notifying the employee of eligibility for coverage.
- Open enrollment materials.

- Summary plan description.

Reporting Obligations Imposed on Plan Sponsors

Sponsors of group health plans that cover participants or beneficiaries who are covered under a Medicaid plan or a state child health plan are required to disclose to the state, upon request, information about the benefits available under the group health plan. Such disclosure is required to be sufficiently specific so as to permit the state to determine the cost-effectiveness of the state-provided medical or child health assistance provided through the premium assistance subsidy programs, and also in order for the state to provide certain supplemental benefits. The information that is to be disclosed is to be set forth in regulations issued by the Secretary of Health and Human Services and a model coverage coordination form is to be developed no later than August 4, 2010. The disclosure obligations will apply to requests made by states beginning with the first plan year that begins after the model information disclosure notice is issued.

Penalties for Failure to Comply

CHIP provides for the assessment of penalties of up to \$100 per day for an employer's failure to satisfy the premium assistance subsidy disclosure requirements and the coverage coordination disclosure requirements described above.

If you would like more information about the foregoing, please contact the authors of this Client Alert, [Debra B. Hoffman](#) (+1 312 701 7219) or [Rebecca C. Davenport](#) (+1 312 701 8118), or any other member of our Employee Benefits & Executive Compensation practice.

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