

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT of 2009 (CHIPRA)**Client Alert**

On February 4, 2009, President Obama signed into law the Children's Health Insurance Program Reauthorization Act of 2009, which extends and expands the State Children's Health Insurance Program (CHIP).

Among other things, the new law allows states to subsidize premiums for employer-provided group health coverage for eligible children and families. It also provides additional HIPAA special enrollment rights, as well as new notice and disclosure obligations for employers that maintain group health plans.

The following are highlights of CHIPRA:

Premium Assistance Subsidy (Effective April 1, 2009)

Instead of providing health coverage directly to qualified families, states will now have the option to offer a premium assistance subsidy to eligible low-income children to subsidize qualified employer-provided group coverage.

Under the law, qualified employer-sponsored coverage must include an employer premium contribution of at least 40% and does not include health flexible spending arrangements or high-deductible health plans. The cost of covering the child under the Plan or even the cost of employee plus child or family coverage may be subsidized by the state if the state finds this method cost effective. The law also allows a state to elect to offer a similar voluntary premium assistance subsidy for qualified employer-sponsored coverage to all individuals younger than age 19 who are entitled to Medicaid.

States are also required to provide supplemental coverage to qualifying children who are enrolled in employer-provided group coverage. The supplemental coverage consists of items or services that are not covered, or are only partially covered, under the employer-provided group coverage.

The subsidy can be paid directly to the employee or employer, if the employer opts out of receiving direct payments, the state would then pay the employee.

Additional HIPAA Special Enrollment Rights (Effective April 1, 2009)

Group health plans must permit employees and dependents that are eligible but not enrolled for coverage to enroll under two additional HIPAA special enrollment events:

- The employee's or dependent's Medicaid or CHIP coverage is terminated as a result of loss of eligibility and the employee requests coverage under the plan within 60 days after the termination, or
- The employee or dependent become eligible for a premium assistance subsidy under Medicaid or CHIP, and the employee requests coverage under the plan within 60 days after eligibility is determined.

A key difference is that employees and dependents will have 60 days, rather than 30 days in which to request enrollment due to these additional HIPAA special enrollment events.

Notice to Employees (Effective February 4, 2010)

Employers that maintain group health plans in states that provide Medicaid or CHIP assistance in the form of premium assistance subsidies are required to provide written annual notices to their employees, informing them of the potential opportunities for premium assistance. The new law directs the U.S. Department of Health and Human Services (HHS) and the Department of Labor (DOL) to develop national and state-specific model notices by February 4, 2010. The notice requirement is effective for plan years beginning after the date on which HHS and DOL issue the model notice.

Employers may provide these notices along with other plan materials notifying the employee of health plan eligibility, with open enrollment materials, or when furnishing the Plan Document.

Disclosure to States

The new law also requires the plan administrator of a group health plan to disclose information about plan benefits to states upon request when a plan participant or beneficiary is covered under Medicaid or CHIP in order to allow states to determine the cost-effectiveness of providing premium assistance for the purchase of coverage under the plan and to provide supplemental benefits. HHS and DOL are directed to establish a working group to develop a model coverage coordination disclosure form for group health plan administrators to complete that would provide certain information for this purpose.

States may not request the model coverage coordination disclosure form until the first plan year that begins after the date on which the form is first issued.

Client/Plan Administrator Next Step

While the notice and disclosure requirements do not take effect until after the model notices and forms have been issued, plans must accommodate requests for the new HIPAA special enrollment rights beginning April 1, 2009.

Potential Plan Document Language Revisions

BAS is evaluating the new legislation as it pertains to changes in Plan Document language and will notify our clients accordingly.

BAS will continue to analyze the legislation, on behalf of our clients, and advise additional clarifications as they become available.