

**CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT (CHIPRA) MODEL NOTICE****Client Alert****Background**

On February 4, 2009, President Obama signed into law the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), which extended and expanded the state Children's Health Insurance Program (CHIP) effective April 1, 2009. 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 new law directed the U.S. Department of Health and Human Services (HHS) and the Department of Health and Human Services to develop national and state specific model notices by February 4, 2010. More information can be found in the BAS Newsletter dated March 23, 2009.

Plans were amended accordingly to ensure compliance effective April 1, 2009.

**Notice Requirement Due**

The U.S. Department of Labor (DOL) has recently issued the sample model Employer CHIP Notice to meet the notice requirement under CHIPRA, distribution of this notice is an employer responsibility.

If a Group Health Plan provides benefits for medical care to participants or dependents in a state that provides a premium assistance subsidy for the purchase of Group Health Plan coverage, the employer sponsoring the Plan is required to meet the CHIPRA notice requirements (Employer CHIP Notice).

**Implementing the Notice Requirement**

The Employer CHIP Notice must be provided annually, on an automatic basis and free of charge. It must inform each employee regardless of whether the employee is enrolled in the

Group Health Plan, of potential opportunities for premium assistance in the state in which the employee resides. Because the state in which the employee resides may or may not be the same as the state in which the employer or the Group Health Plan, are located, the DOL designed the model Employer CHIP Notice as a national notice to cover an array of situations where employees (or their families) entitled to the notice may reside in various states. The model Employer CHIP Notice, which is available on the DOL's website, provides a list of states along with contact information (current as of January 22, 2010) that offer qualifying premium assistance programs. The DOL intends to update this list annually on its Web site. Attached is a copy of the notice which can also be found under Compliance Assistance, Children's Health Insurance Program at: [http://www.dol.gov/ebsa/compliance\\_assistance.html#section2](http://www.dol.gov/ebsa/compliance_assistance.html#section2)

An employer may choose to send an Employer CHIP Notice to all of its employees if it is administratively easier than determining which employees reside in states that provide premium assistance.

The model notice can be used as is to fulfill the employer notice requirements or an employer may modify the model notice to add more specific information about a particular state's premium assistance subsidy opportunities.

**Timing and Delivery of Notice**

The initial Employer CHIP Notice must be provided to employees by the date that is the later of: (i) the first day of the first Plan Year after February 4, 2010; or (ii) May 1, 2010. So, for Plan Years beginning March 1, 2010, April 1, 2010 or May 1, 2010 the notice must be provided by May 1, 2010. For Plans whose Plan Year begins January 1, 2011 the initial Employer CHIP Notice must be sent no later than January 1, 2011.

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*The notice must be provided annually thereafter. It is not required that the Employer CHIP Notice be provided in a separate mailing. Plans may combine information to reduce administrative costs. An employer may provide the Employer CHIP Notice with, materials notifying the employee of Group Health Plan eligibility, annual enrollment materials, distribution of the Plan Document and Summary Plan Description, so long as the notice is in a separate written document and is written in a manner calculated to be understood by the average employee. The Employer CHIP Notice may be provided by first-class mail or electronically, subject to the DOL's electronic disclosure rules.*

*After the initial Notice requirement has been met a recommendation would be to include the Employer CHIP Notice along with The Women's Health and Cancer Rights Act notice, since both are annual requirements.*

### **Coming: Additional Disclosure Requirement**

*In addition to the Employer CHIP Notice, CHIPRA also provides that, in order for States to evaluate an employment based Plan to determine whether premium assistance is a cost effective way to provide medical or child health assistance to an individual, Group Health Plans are required to provide, upon request, information about their benefits to State Medicaid or CHIP Programs. Various Departments are in the process of developing a model coverage coordination disclosure form that will be issued in the future. States will not be requesting this information until after this model disclosure form is issued.*

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