

Legislative Brief

DOL Model Notice for CHIPRA Premium Assistance Subsidies



EXECUTIVE SUMMARY

The U.S. Department of Labor has issued a new model notice that employers can use in complying with the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

- If an employer's group health plan covers residents in a state that provides a premium subsidy, the employer must send an annual notice about the available assistance to all employees residing in that state (the Employer CHIP Notice).
- The first Employer CHIP Notice must be sent by the **first day of the first plan year beginning after February 4, 2010, or May 1, 2010, whichever is later**. For employers with calendar year plans, the notice must be sent by January 1, 2011.
- Employers that fail to send the required notices may be subject to penalties of \$100 per day.

This FAS-EBA, Inc. Legislative Brief provides information on how to comply with the Employer CHIP Notice requirements. Please read below for more information and contact your FAS-EBA, Inc. representative with any questions.

COMPLIANCE WITH CHIPRA

General CHIPRA Requirements

CHIPRA created additional special enrollment rules for group health plans, effective April 1, 2009. These rules permit employees and dependents to enroll in an employer's group health plan when they lose eligibility under a Medicaid plan or CHIP or become eligible for a premium assistance subsidy under Medicaid or CHIP.

CHIPRA also added new notice requirements for employers that maintain group health plans in states that provide premium assistance subsidies under a Medicaid plan or CHIP. These employers must notify their employees in writing of the potential opportunities available for premium assistance. CHIPRA provides for civil penalties of up to \$100 a day for failure to comply with the new requirements.

Premium Assistance Subsidies

States may offer eligible low-income children and their families a premium assistance subsidy to help pay for employer-sponsored coverage. These states may choose to pay the subsidy as a reimbursement to an employee for out-of-pocket expenses or directly to the employer. Employers may choose to opt out of being directly paid a premium assistance subsidy on behalf of an employee. As of January 22, 2010, 40 states offer some type of premium assistance subsidy.

Using the Model Employer CHIP Notice

Employers may use the model notice as a national notice to meeting their obligations under CHIPRA. Employers could also choose to prepare their own notices, or modify the model notice. For example, an employer may want to provide more comprehensive information regarding states where it has a larger workforce or leave out information about states where no employees reside. Employers should be sure to include at least the minimum relevant state contact information for any employee residing in a state with premium assistance.

The information in the model notice is up to date as of January 22, 2010. The DOL will update the model each year to reflect any changes in the number of states offering premium assistance programs or the contact information for those states.

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Deadlines for Providing the Notice

The notice must be provided, free of charge, on an annual basis. The first notice must be provided by the first day of the first plan year after February 4, 2010, or May 1, 2010, whichever is later. This rule gives employers with plan years beginning in March or April some extra time to comply. Employers with calendar year plans will have to provide the notice by January 1, 2011.

Delivery of the Notice

The Employer CHIP Notice does not have to be provided in a separate mailing. Plans may combine the notice with other plan materials, such as open enrollment packets or summary plan descriptions, if:

- The materials are provided by the deadlines for providing the Employer CHIP Notice;
- The materials are provided to all employees entitled to receive the Employer CHIP Notice; and
- The Employer CHIP Notice is a separate document so that employees can appreciate its significance.

The notice must be provided in writing in a manner calculated to be understood by the average employee. It may be provided by first-class mail. Alternatively, it may be provided electronically if DOL electronic disclosure requirements are satisfied.

For a copy of the model notice, see www.dol.gov/ebsa/pdf/chipmodelnotice.pdf.

This FAS-EBA, Inc. Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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