



SPECIAL Alert

In This Issue

In this second McGrawWentworth Special Alert for 2010, we discuss the recent guidance on the Children's Health Insurance Plan or CHIP required notices. Last year President Obama expanded eligibility for the CHIP program and also allowed states to offer premium assistance.

These notices are required in states that adopted premium assistance. Currently, Michigan is not one of those states, but if you have employees in other states, you may be affected by these notice requirements.

We welcome your comments and suggestions regarding this issue of our Special Alert. For more information on this article, please contact your Account Manager or visit the McGrawWentworth website at www.mcgrawwentworth.com.

"CHIP Notices"

On February 4, 2009, President Obama signed the Children's Health Insurance Reauthorization Act of 2009 (CHIPRA). CHIPRA expanded the eligibility requirements for the Children's Health Insurance Program (CHIP), a federally funded program run by each state. This program provides low-cost comprehensive health care coverage to children who meet specific eligibility requirements.

In addition to expanding the eligibility requirements, CHIPRA also added new special enrollment opportunities to the Health Insurance Portability and Accountability Act (HIPAA). An eligible individual may join the employer's group health plan mid-year if:

1. Medicaid or CHIP coverage is terminated mid-year due to a loss of eligibility under either of these programs.
2. The employee or dependent becomes eligible for a premium assistance subsidy under Medicaid or CHIP.

Organizations amended their health plans last year in order to reflect these new HIPAA special enrollment opportunities. Employees were informed that if either of these events occurs and they wish to enroll in the group health plan as a result, then they must advise their employer within 60 days of the event.

Finally, CHIPRA included a mandatory annual notice requirement. This notice applies only in states where premium assistance is offered as a way of delivering CHIP coverage through the employer's group health plan, and would not be required until the Department of Labor (DOL) issued model notices and details on the notice requirements. On February 4, 2010, the DOL published model notices and guidance on providing these notices. The notice must include information on the potential availability of premium assistance and how to contact the state where the employee resides for specific details.



The first challenge for employers is that the annual notice requirements apply only when the state adopts premium assistance. The DOL reports that, as of January 22, 2010, 40 states offer one or more programs that meet this standard. A listing of the 40 states can be found in the chart on page 2.

You will need to provide notices if you have employees in the states that offer premium assistance. From an employer standpoint, it makes sense to identify where the employees covered by your plan reside. Employers have

the option to provide a notice to all employees, or they can identify the employees in any of the states affected and send notices only to those employees.

The employer's CHIP notice must inform each employee, regardless of their enrollment status, of the potential opportunities for premium assistance in the state where the employee resides.

The DOL has posted a model notice in a modifiable electronic format at <http://www.dol.gov/ebsa>. This model notice serves as a national notice to cover employees in any state. Employers must deliver the initial CHIP notice by the later of:

- First day of the first plan year after February 4, 2010; or
- May 1, 2010.

For calendar year plans, this notice requirement will impact your plan as of January 1, 2011.

The DOL does allow employers to send this notice with other plan information, such as new hire communication materials, open enrollment newsletters and Summary Plan Descriptions. If the notice is provided with other plan information, the following criteria must be met:

- Materials are provided no later than the date required.
- The materials are provided to all the employees who should receive the notice.
- The employer's CHIP notice must appear separately and in a manner which ensures that the employee who may be eligible for premium assistance could reasonably be expected to appreciate the significance.

The notice must be written in a manner calculated to be understood by the average employee. The notice

Alabama	Iowa	Nevada	Rhode Island
Alaska	Kansas	New Hampshire	South Carolina
Arizona	Kentucky	New Jersey	Texas
Arkansas	Louisiana	New Mexico	Utah
California	Maine	New York	Vermont
Colorado	Massachusetts	North Carolina	Virginia
Florida	Minnesota	North Dakota	Washington
Georgia	Missouri	Oklahoma	West Virginia
Idaho	Montana	Oregon	Wisconsin
Indiana	Nebraska	Pennsylvania	Wyoming

may be provided electronically, provided the delivery meets the requirements set forth in ERISA. Similar to Medicare Part D notices, these notices must be provided annually. The DOL will update its website to keep track of the states that offer some form of premium assistance. The DOL will also maintain information on the notice requirements on this website.

Action Steps

Michigan is not on the list of states that has adopted the premium assistance provisions. If your organization is confident that all of your employees reside in Michigan, then technically this requirement does not apply to you. However, this notice requirement does apply if you have employees in *any* of the states that are offering premium assistance. It may be a good idea simply to create a notice and a process for annually providing it. By providing the notice, if any of the states change status, you will have already satisfied the notice requirement.

- Download the model notice from the DOL and modify it to meet your organization's situation.
- Create a process for notice distribution. Since the notice distribution process is similar to the notices for Medicare Part D, it may make sense simply to include this notice along with your Medicare Part D notices.
- If your plan year ends between February 4 and May 1 of 2010, and you are unable to include the notice in your open enrollment materials, you may want to send out a separate mailing.

For employees with children who may qualify for coverage under the CHIP plan in any state, the CHIP plan may be the most cost-effective way to provide coverage. This notice could supply helpful information to these individuals.

If you have any questions, please call your McGraw Wentworth Account Manager. **MW**

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McGraw Wentworth, Inc.

3331 West Big Beaver Road, Suite 200
Troy, MI 48084
Telephone: 248-822-8000 Fax: 248-822-4131
www.mcgrawwentworth.com

250 Monroe Ave. NW, Suite 400
Grand Rapids, MI 49503
Telephone: 616-717-5647 Fax: 248-822-1278
www.mcgrawwentworth.com