

## [ Alerts and Updates ]

### Group Health Plan Sponsors Now Required to Comply with CHIPRA

May 14, 2009

Employers that sponsor group health plans may need to update those plans to comply with the new requirements of the federal Children's Health Insurance Reauthorization Act of 2009 ("CHIPRA"). CHIPRA reauthorized and expanded the scope of the State Children's Health Insurance Program (now known as CHIP) to permit state programs to provide qualifying children from low-income families with a premium subsidy toward enrollment in employer group health plans. However, what may be most relevant to employers is that CHIPRA created additional obligations for group health-plan sponsors, including new special enrollment rights – effective as of April 1, 2009 – as well as new notice and disclosure requirements and compliance penalties of up to \$100 per day, per participant, for failure to comply with these notice and disclosure requirements.

Employers should take the following steps to comply with CHIPRA:

1. As of April 1, 2009, group health plans must comply with the new CHIPRA special enrollment rights in practice. Moreover, these new enrollment rights should be incorporated in plan documents and summary plan descriptions. CHIPRA's special enrollment rights mandate that a group health plan allow an employee or dependent who is eligible, but not enrolled in coverage under the plan, to enroll in the plan within 60 days of: (1) his or her loss or termination of Medicaid or CHIP coverage due to loss of eligibility or (2) his or her gain of eligibility for group health-plan premium assistance under Medicaid or CHIP.
2. Group health-plan sponsors should update HIPAA special-enrollment notices to reflect these new CHIPRA enrollment rights.
3. Group health-plan sponsors should be aware of CHIPRA's new notice and disclosure requirements:

**Premium Assistance Notice:** Employers that sponsor group health plans in a state where Medicaid or CHIP benefits may be provided through premium assistance for employer group health plans must provide employees with a notice detailing the premium assistance available.

This notice does not have to be provided until the first plan-year following the government's provision of a model notice; thus, for calendar-year plans, the notice requirement applies as of January 1, 2011. Moreover, this notice may be provided in conjunction with the provision of the summary plan description for a group health plan, health-plan eligibility materials or open enrollment materials.

**State Disclosure Requirement:** Employers that sponsor group health plans that have a participant who is covered under Medicaid or CHIP will be required to disclose information to the state, upon request, to evaluate the cost effectiveness of a group health-plan premium assistance program. The federal government will develop a model form on which such disclosure should be made, and plan sponsors will be required to use this form in the first plan-year following the issuance of the model form.

## For Further Information

If you have any questions regarding this Alert, please contact any [member](#) of the [Employee Benefits and Executive Compensation Practice Group](#) or the attorney in the firm with whom you are regularly in contact.