Children's Health Insurance Program Reauthorization Act of 2009

On Feb. 4, 2009, President Obama signed into law the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The state children's health insurance program ("CHIP") provides health insurance for children whose families cannot afford private healthcare but do not qualify for federal Medicaid. CHIPRA expanded CHIP by providing additional special enrollment rights related to group health plan coverage. CHIPRA also permits states to offer eligible low-income children and their families a premium assistance subsidy to help pay for employer-sponsored group health coverage, and imposes new notice and disclosure obligations for employers that maintain group health plans.

This issue of the The Harry A. Koch Co. Legislative Brief provides you with an overview of CHIPRA. Please read below for more information.

Special Enrollment Rights

Prior to CHIPRA, group health plans were required to provide special enrollment rights only to certain individuals who lost eligibility for other health coverage or who acquired a new spouse or dependent. Effective April 1, 2009, CHIPRA extended special enrollment rights to employees and dependents who lose eligibility under a Medicaid plan or CHIP and to employees and dependents who become eligible for a premium assistance subsidy under a Medicaid plan or CHIP. Eligible individuals must be given 60 days after the loss of coverage or determination of eligibility for assistance to request coverage under the group health plan.

Group health plan documents should include the additional special enrollment rights. In addition, special enrollment notices provided to new enrollees should describe the health plan’s special enrollment rights, including the rights triggered by the loss of eligibility under a Medicaid plan or CHIP and the determination of eligibility for premium assistance.

Premium Assistance Subsidy

CHIPRA allows states to offer eligible low income children and their families a premium assistance subsidy to help pay for qualified employer-sponsored coverage. Qualified employer-sponsored coverage means a group health plan or health insurance coverage offered by an employer that (i) qualifies as creditable coverage as a group health plan under the Public Health Service Act, (ii) for which the employer contribution for the coverage is at least 40 percent and (iii) that is offered in a non-discriminatory manner. Benefits provided under a health flexible spending arrangement or high deductible health plan are not considered qualified employer-sponsored coverage.

States that provide a premium assistance subsidy may choose to pay the subsidy as a reimbursement to an employee for out-of-pocket expenses or directly to the employer. However, employers may choose to opt out of being directly paid a premium assistance subsidy on behalf of an employee.
Premium Assistance Notice Requirements

CHIPRA requires employers that maintain group health plans in states that provide medical assistance under a Medicaid plan or child health assistance under a CHIP in the form of a premium assistance subsidy to notify their employees in writing of the potential opportunities available for premium assistance. The notice must be provided, free of charge, on an annual basis. The first notice was required to be provided by the first day of the first plan year after Feb. 4, 2010, or May 1, 2010, whichever was later. Employers with calendar year plans were required to provide the first notice by Jan. 1, 2011.

The Department of Labor (DOL) has developed a national model notice for use by employers in notifying employees of premium assistance opportunities. Employers may use the model notice, or may choose to prepare their own notices. The information in the model notice is up to date as of Jan. 31, 2011. The DOL intends to update the model notice each year to reflect any changes in the number of states offering premium assistance or the contact information for those states. The DOL’s mode notice is available at: www.dol.gov/ebsa/pdf/chipmodelnotice.pdf. A Spanish version of the DOL’s model notice is also available on the DOL’s Web page at: www.dol.gov/ebsa/consumer_info_health.html.

Employers may provide the notice along with plan materials notifying the employee of health plan eligibility, open enrollment materials or the summary plan description.

Disclosure to States

Under CHIPRA, administrators of group health plans must disclose to the state, upon request, information about the benefits available under the plan if the plans' participants and beneficiaries are also covered by Medicaid or CHIP. This information is required so that the state may determine the cost-effectiveness of providing premium assistance subsidies and may provide supplemental coverage.

CHIPRA directed the Department of Health and Human Services and the DOL to jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group that will develop a model coverage coordination disclosure form for use by plan administrators. The effective date for use of the model form is the first day of the first plan year beginning after the date on which the form is first issued.

Penalty for Noncompliance with Premium Assistance Notice and Disclosure Requirements

CHIPRA provides for civil penalties of up to $100 a day for failure to comply with the new requirements to notify employees of premium assistance opportunities provided by their states and to disclose to the state information about the plan’s benefits if participants and beneficiaries are covered by Medicaid or CHIP.

Please contact your The Harry A. Koch Co. representative with any questions.