

COMPLIANCE UPDATE

CHIP Reauthorization Bill

PRESIDENT OBAMA SIGNS CHIP REAUTHORIZATION BILL

On February 4, 2009, President Obama signed into law Public Law 111-3, the Children's Health Insurance Program (CHIP) Reauthorization Act of 2009, a \$32.8 billion expansion of the State Children's Health Insurance Program. This program, known as CHIP or SCHIP, was created more than a decade ago to help provide health coverage for children of working families with incomes too high to qualify for Medicaid but too low to afford private coverage. The expectations are to include another 3.5 million uninsured children and pregnant women in this program, bringing the total covered by CHIP to 11 million. It also amends ERISA to add Medicaid and CHIP coverage as a special enrollment event, effective on April 1, 2009.

This Act allows for the permanent authority for a state to use certain funds to pay for medical assistance to individuals under age 19 whose family income exceeds 150% of the poverty line. It also allows each state to cover certain low-income pregnant women under CHIP through a state plan amendment if certain conditions are met. In addition, each state now has the option to provide a premium assistance subsidy for qualified employer-sponsored coverage to low-income children eligible for CHIP who have access to such coverage, if the child (or the child's parent) voluntarily elects to receive such a subsidy; further, the Act allows employers to receive the subsidy payment directly or to agree for the state to directly pay the employee.

Other highlights of this Act that directly impact employers include:

- » An amendment to ERISA Section 701(f) and the Internal Revenue Code that make enrolling in or being terminated from Medicaid and/or CHIP coverage a special enrollment event. This amendment requires a group health plan to allow an eligible employee who is not currently enrolled for coverage under the employer's plan, to enroll in the plan if either of the following conditions are met:
 1. The employee requests coverage under the group health plan within 60 days after termination of either the employee's or dependent's Medicaid or CHIP coverage because they were no longer eligible, or
 2. The employee or dependent becomes eligible for Medicaid or CHIP premium assistance subsidy and the employee requests coverage within 60 days after the eligibility is determined.
- » A requirement for employers who maintain group health plans in states where Medicaid or CHIP premium assistance subsidies are available to provide written notices to their employees that explain the potential opportunities for premium assistance subsidies to help pay for their and/or their dependents' health coverage.
- » An allowance for employers to provide the new subsidy notices along with other health plan materials, such as eligibility information, open enrollment materials, or the SPD. The notice requirement becomes effective for plan years that begin after the date on which model notices are first issued, which is to be in 2010.
- » A directive to the Secretaries of the Health and Human Services and the Department of Labor to develop the model coverage disclosure form by February 4, 2010, for employers to explain the possibility of premium subsidies.
- » Civil penalties of up to \$100 a day for failure to comply with the new notice and disclosure requirements.

Even though the effective date of this Act is April 1, 2009, there is an allowance for more time for certain state Medicaid plans or State Children's Health Insurance Program (SCHIP), if it is needed for the a state's legislation to meet additional requirements imposed by this Act.

For additional information on this Act, visit <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.2>:

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