

LEAVITT GROUP BENEFITS BULLETIN

Employer Obligation to Notify Employees of Possible Premium Assistance from Children's Health Insurance Program (CHIP) **Possible Action Required**

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Possible January 1, 2011 Notice Requirement!

Employers that sponsor group health plans must notify eligible employees of their possible right to receive financial assistance through Medicaid and the Children's Health Insurance Program (CHIP) to pay for premiums for health coverage under the employer's plan, if such assistance is currently available in the states in which employees reside. **Employers who did not notify employees earlier in 2010 are required to do so by January 1, 2011.** The U.S. Department of Labor provided a model notice in February 2010 (copy attached to this Leavitt Bulletin) that employers can use to notify employees. The model notice is also at: <http://www.dol.gov/ebsa/chipmodelnotice.doc>.

What's in the Model Notice

The model notice includes contact information for the Medicaid and/or CHIP programs in each state that provides premium assistance as of November 3, 2010. Employers can provide the entire 3-page model notice to all employees, or may instead wish to shorten the notice and provide state-specific information to employees who reside in states that offer this premium assistance. The model notice is short and easy to understand. It starts out: "If you are eligible for health coverage from your employer, but are unable to afford the premiums, some States have premium assistance programs that can help pay for coverage."

Background

See Leavitt Memorandum 2010-6, which was sent to clients about February 25, 2010, for background information. In brief, the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) was enacted on February 4, 2009, and reauthorized the federally-mandated State Children's Health Insurance Program (SCHIP) which is partially funded under state law. CHIPRA not only imposed an annual notice requirement on employers who sponsor group health plans, it also required plans to offer a 60-day "special enrollment"

period (rather than the prior 30-day period under HIPAA) for employees and/or dependent children who either lose coverage under, or become eligible for group health premium assistance under, a Medicaid plan or a state CHIP plan.

Distributing the Notice

The notice may be mailed to eligible employees by first-class mail or distributed electronically in compliance with the DOL's electronic notice distribution rules. It may be included with open enrollment materials or sent separately. If it is not sent before January 1, 2011, it should be sent as soon as possible thereafter, to avoid potential penalties from the DOL.

If you sent out this notice earlier this year (probably in March or April), or if your carrier sent it out recently with other open enrollment materials, you are not required to send it out again at this time. This notice is required to be sent annually, however, so you should include it with next year's open enrollment materials or send it separately before January 1, 2012.

This notice requirement applies to sponsors of both insured and self-funded medical plans. It should be sent to all employees who reside in a state that offers this premium assistance, even if the employer's location or principal place of business is not in one of the states listed in the model notice, and even if the employee is not currently eligible to enroll in the employer's group health plan.

Action Plan

1. Review the attached Model Notice and see if you have employees in any of the states listed in the Notice.
2. If so, confirm whether you or your carrier notified employees earlier this year.
3. If you (or your carrier) did not previously notify employees this year, decide whether you will send the entire attached Model Notice, or will delete information about states in which you do not have employees and instead send only the information that pertains to states in which your employees reside.
4. Send the notice to all eligible employees, either by first-class mail or electronically. If you cannot meet the January 1, 2011 deadline, send the notice as soon as possible after that date.

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If you have questions, contact Lisa-Klinger@Leavitt.com

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