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EBEC (Employee Benefits / Executive Compensation) Law Update

April 28, 2010

Children's Health Insurance Program (CHIP) Annual Notice Required by Beginning of Next Plan Year or May 1, 2010

Under the Children's Health Insurance Program Reauthorization Act of 2009, a Children's Health Insurance Program notice must be sent out by employers providing group health coverage.

The State Children's Health Insurance Program of 1997 (SCHIP or CHIP), was enacted in order to provide medical coverage for children in families that would not qualify for Medicaid but still could not afford health insurance. The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) increases funding and provides expanded eligibility for this program.

CHIPRA provides that all employers with group health plans and with employees that are in a state with CHIP coverage must provide an annual CHIP notice. This goes into effect by the later of (i) the first day of the plan year beginning after Feb. 4, 2010, or (ii) May 1, 2010. (This May 1 date would be relevant if a plan year begins Feb. 4 through April 30.) If the plan year is the calendar year, the notice will have to be provided by Jan. 1, 2011. See 75 Fed. Reg. 5808 (Feb. 4, 2010), <http://www.dol.gov/federalregister/PdfDisplay.aspx?DocId=23521> which discusses the model notice.

The notice must be sent annually, and although it can be provided with enrollment packets, open enrollment materials or summary plan description, it must be separate so that employees who would be eligible appreciate its significance. Also, SPDs for the group health plans should be revised to include the new special enrollment rights at the time children become eligible for CHIP, per Code § 9801(f) and ERISA § 701(f).

The model notice is available at <http://www.dol.gov/ebsa/chipmodelnotice.doc> .