

**Employee Benefits &
Executive Compensation
Group**

For further information on the Employee Benefits group or this update, please contact one of our members:

Paul B. Holmes, Chair
312.977.4488
pbholmes@uhl.w.com

Michael F. Tomasek
312.977.4462
mftomasek@uhl.w.com

Dennis G. Bouxsein
312.977.9204
dgbouxsein@uhl.w.com

Catherine T. Gonzalez
312.977.4327
ctgonzalez@uhl.w.com

David C. Strosnider
312.977.4499
dcstrosnider@uhl.w.com

Employee Benefits Update

COBRA Premium Subsidy Notice Deadline Looms CHIPRA Special Enrollment Provisions Effective April 1

COBRA Subsidy Update

As we reported last month, the Federal stimulus legislation provides a government subsidy equal to 65% of certain COBRA or State continuation coverage costs. The premium assistance is available for any individual eligible for COBRA or State continuation coverage who was involuntarily terminated between September 1, 2008, and December 31, 2009, and who meets certain income limitations.

The subsidy legislation requires a group health plan administrator to provide all individuals who are terminated between September 1, 2008, and December 31, 2009, with notice of the legislation. As required by the subsidy law, the Department of Labor has issued model notices for this purpose. Unfortunately, the model package created by the government is quite voluminous. When working through the model notices, group health plan administrators should keep in mind that the subsidy statute only requires the notice to include:

- (i) any forms necessary for establishing eligibility for the premium reduction;
- (ii) contact information for the plan administrator and any other person who has relevant information;
- (iii) a description of the extended COBRA election period provided by the legislation;
- (iv) a description of the obligation of the qualified beneficiary to notify the plan of subsequent coverage and the penalty for failure to do so;
- (v) a prominent description of the right to a reduced premium and conditions on entitlement to the reduced premium; and
- (vi) a description of any option of the qualified beneficiary to enroll in different coverage.

Notices must be provided to certain individuals no later than April 18, 2009

According to a representative of the Department of Labor, the model notices are not meant to address every situation. The official urged modification and tailoring of the notices as needed to address particular situations. We have been assisting our clients with developing customized notices that serve their individual needs, and we are prepared to provide your organization with any assistance necessary to comply with this requirement.

CHIPRA

The Children's Health Insurance Program Reauthorization Act of 2009 ("CHIPRA") will require group health plans to take action in three substantive areas:

- special enrollment rights,
- notice, and
- disclosure to states.

Please visit www.uhl.w.com/about/contactus to receive future editions of the Employee Benefits Update via email.

This **Employee Benefits Update** has been prepared by Ungaretti & Harris LLP solely for informational purposes and does not constitute legal advice. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship. Readers should not act upon this information without seeking professional counsel.

CHICAGO
3500 Three First National Plaza
70 W. Madison Street
Chicago, IL 60602
312.977.4400
312.977.4405 fax

SPRINGFIELD
400 East Jefferson Street
Suite 1200
Springfield, IL 62701
217.544.7000
217.544.7950 fax

WASHINGTON, D.C.
1500 K Street, NW
Suite 250
Washington, DC 20005
202.639.7500
202.639.7505 fax

GRAND RAPIDS
40 Pearl Street, NW
Suite 430
Grand Rapids, MI 49503
616.284.5900
616.284.5903 fax

Special Enrollment Rights

Effective April 1, 2009, a group health plan must allow employees and their dependents to enroll in the plan within 60 days after losing eligibility for Medicaid or CHIP coverage. A group health plan must also allow employees and dependents to enroll within 60 days of becoming eligible for premium assistance under Medicaid or CHIP with respect to the group health plan.

A Plan sponsor should amend its plan as necessary to include these new special enrollment rights and provide employees with notice of the new enrollment rights. An employer should also ensure that its cafeteria plan contains any desired provisions that are sufficient to enable employees to make the enrollment change on a pre-tax basis. A self-insured employer should confirm that CHIPRA special enrollees are covered by any stop-loss policy.

Notice Requirement

CHIPRA requires a group health plan to provide notice to employees regarding potential premium assistance opportunities available through the states. This notice can be provided through the Summary Plan Description, during initial enrollment in the plan, or with open enrollment materials. Under the Act, the Departments of Health and Human Services and Labor are to establish a working group to provide model notices by February 4, 2010. State-by-state model notices of premium assistance opportunities are contemplated. A group health plan will be required to provide the notice described above beginning with the first plan year that begins after February 4, 2010. This will mean January 1, 2011, for calendar year plans.

Disclosure to States

CHIPRA will require a group health plan to disclose information regarding its benefits to a state agency on request. Such disclosure will not be required until the first plan year after the working group prepares the model coverage coordination disclosure form contemplated by CHIPRA.

To obtain assistance with the matters described above, please contact a member of the Ungaretti & Harris Employee Benefits and Executive Compensation Group.

Ungaretti & Harris' Employee Benefits Group handles all aspects of employee benefit plan and executive compensation representation. We serve as general employee benefits counsel to numerous companies, and also serve as ERISA counsel to banks, trust companies, insurance companies, investment managers, and third-party recordkeeping firms. Please call any member of the Employee Benefits and Executive Compensation Group if you have questions regarding ERISA compliance.

CHICAGO
3500 Three First National Plaza
70 W. Madison Street
Chicago, IL 60602
312.977.4400
312.977.4405 fax

SPRINGFIELD
400 East Jefferson Street
Suite 1200
Springfield, IL 62701
217.544.7000
217.544.7950 fax

WASHINGTON, D.C.
1500 K Street, NW
Suite 250
Washington, DC 20005
202.639.7500
202.639.7505 fax

GRAND RAPIDS
40 Pearl Street, NW
Suite 430
Grand Rapids, MI 49503
616.284.5900
616.284.5903 fax