

## **Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA)**

March 10, 2009

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) was signed into law on February 4, 2009. The Act increases state allotments for covering additional children in the Children's Health Insurance Program (CHIP), provides state options for premium assistance, requires new notice requirements related to coordinating public and private coverage in premium assistance programs, and allows state options to cover pregnant women and legal immigrant pregnant women and children, in addition to an increased focus on coverage of lower-income children. Below are some of the details regarding CHIPRA that may be of interest to employers:

### **Premium Assistance Program**

Under Medicaid and CHIP, the state Department of Health and Human Services has the authority to approve funding that would allow individuals eligible for Medicaid and CHIP to purchase Qualified Employer Coverage, through a Premium Assistance Subsidy, in lieu of enrolling in Medicaid/CHIP.

- "Qualified employer coverage" means:
  - The employer provides at least 40% of the cost of coverage (i.e. premium)
  - Coverage is creditable coverage as defined under HIPAA, and
  - Coverage is offered to all individuals in a nondiscriminatory manner.
- "Premium Assistance Subsidy" means:
  - For CHIP: "the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan."
  - For Medicaid: "the amount of the employee contribution for enrollment in the qualified employer-sponsored coverage by the individual under age 19 or by the individual's family."

The offering of the Premium Assistance Program will be determined on a state by state basis. Some states may already provide this type of program. ***North Carolina does not currently offer such a program and must pass legislation in order to offer the Premium Assistance program.*** The effective date of this provision is April 1, 2009; however, it is expected that additional time will be provided to allow states to comply with the requirements based on the timing of state legislative sessions.

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This document is intended as general information on the CHIPRA. The information is not in any way meant to provide legal advice. If you have questions regarding CHIPRA and your obligations as an employer, you should contact legal counsel.

BCBSNC continues to monitor legislative activity for the introduction of this legislation in North Carolina. If you have employees in multiple states, you will need to be aware of whether those states offer, or decide to offer a Premium Assistance Program. BCBSNC will provide relevant state-by-state Premium Assistance Program information, as a courtesy, as we receive it.

CHIP/Medicaid will pay the Premium Assistance Subsidy to the employer unless the employer opts out. In cases of the opt-out, the state will pay the Premium Assistance Subsidy directly to the employee.

The Premium Assistance Program through Qualified Employer Coverage is optional and states will not be able to require a child or family to receive coverage through an employer in lieu of the governmental plan.

### **Special Enrollment Period**

As of April 1, 2009, employer-sponsored health plans must provide special enrollment periods if the employee or dependent is either:

- covered under Medicaid or CHIP, and loses that coverage because of loss of eligibility; or
- becomes eligible for a Premium Assistance Program (only applicable for those states that have passed legislation creating the program).

**\*\*\* The special enrollment right resulting from loss of eligibility under Medicaid or CHIP is implemented as of April 1, 2009 – regardless of whether North Carolina implements the Premium Assistance Program. See below for timing and content of Notices.**

Employees will have to request coverage under the group health plan no later than 60 days after either the date of coverage termination (under Medicaid or CHIP) or the date the employee is determined eligible for a Premium Assistance Program.

BCBSNC is prepared to begin accepting employees, designated by Employers as eligible for special enrollment as of April 1, 2009.

### **Notices**

If North Carolina elects to provide Premium Assistance Subsidies, the State shall provide notice of the availability of Premium Assistance Subsidies for the enrollment of targeted low income children in qualified employer-sponsored coverage.

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***In states with a Premium Assistance Program, including North Carolina if implemented***, employers are required to provide each employee a written notice about opportunities for premium assistance and the ability to enroll within the new special enrollment period. The written notice is to be developed by the states, Department of Health and Human Services (DHHS), and the Department of Labor (DOL).

The notice can be provided as part of the annual open enrollment, when notifying the employee of health plan eligibility, or concurrent with providing the summary plan description.

- BCBSNC shall be reviewing our applications and benefit booklets and will be preparing to make necessary changes to these documents with regard to residents of North Carolina.
- If you have employees in multiple states, you may want to provide separate notices to those residents depending on whether the other applicable states offer a Premium Assistance Program or provide one notice to all employees that have all the state options listed.

***In states with a Premium Assistance Program, including North Carolina if implemented***, employers will be required to disclose to the state, upon request, detailed information about the benefits available under the plan in order to determine whether the group health plan is qualified employer coverage (Information about premiums, cost-sharing, and other relevant items). **See below for timing of Notices.**

### **Timing of Notice Requirements**

Model Notices for Special Enrollment. The requirement goes into effect the first plan year that begins after the date on which the forms are issued. HHS, DOL and the states have one year from enactment (by February 4, 2010) to develop the model employee notification form.

- If the model notices are issued 11/1/09 and your plan year begins 1/1/2010, you must have appropriate notices in place beginning 1/1/2010.
- If the model notices are issued 1/1/2010 and your plan year begins 1/1/2010, you must have appropriate notices in place beginning 1/1/2011.
- Even if notices are not immediately required, employers must allow special enrollment to eligible individuals as defined above upon the applicable effective dates.

Coverage Disclosure Form. The requirement goes into effect the first plan year that begins after the date one which the forms are issued. The Coordination Workgroup has 1.5 years from enactment (August 4, 2010) to develop the coverage disclosure form and the group must convene within two months of enactment (April 4, 2009).

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- This will only be required for North Carolina residents if North Carolina implements the Premium Assistance Program.
- This may be required of other states that provide a Premium Assistance Program where the employer has residents.

#### **What is BCBSNC Doing to Prepare?**

- BCBSNC is monitoring North Carolina legislative activity for the introduction of legislation regarding additional funding for CHIP and the Premium Subsidy Program.
- BCBSNC is seeking information from other states regarding their current CHIP programs and whether they currently offer or decide to offer a Premium Assistance Program. BCBSNC will provide this information as a courtesy as it is received.
- BCBSNC will ensure that as of April 1, 2009, BCBSNC will accommodate the special enrollment of those individuals and their dependents who lose Medicaid or CHIP eligibility or become newly eligible for a Premium Assistance Program.
- BCBSNC will revise benefit booklets and enrollment forms to reflect special enrollment model language with respect to North Carolina residents.
- BCBSNC will provide information regarding the issuance of model notices for both special enrollment and the coverage disclosure form as BCBSNC receives it.

#### **What Can Employers Do to Prepare?**

- Employers should identify all states where their employees reside and determine whether the state provides a Premium Assistance Program. BCBSNC will provide information it collects as a courtesy.
- Employers should be prepared to provide the special enrollment notice (once the model notices are issued) to their employees. This may require a special enrollment notice that reflects options for multiple states.
- Employers need to allow employees who qualify for the special enrollment to enroll as of April 1, 2009.

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