

**Client Alert: The Children's Health Insurance Program Reauthorization Act of 2009**

On February 4, 2009, the President signed into law the Children's Health Insurance Program Reauthorization Act of 2009 (the "Act"), imposing new obligations on employer sponsored group health plans. **The Act expands and reauthorizes the State Children's Health Insurance Program ("SCHIP") to provide health coverage to approximately 6.2 million additional children.** Under previous law, SCHIP was not authorized to continue beyond March, 2009. The Act extends SCHIP through September, 2013 and increases SCHIP funding by \$32.8 billion.

The Act amends both the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 ("ERISA") to require employers and insurers to amend their group health plans. The Act requires group health plans to allow an employee to enroll if the employee either becomes eligible for or is terminated from Medicaid or SCHIP coverage. The Act also requires employers that have a group health plan to provide notice to employees advising them of the availability of such coverage.

Employers must allow their eligible employees to enroll in their group health plan if the employee or dependent that is covered under Medicaid or a state child health plan becomes i) ineligible to receive such, and the employee requests coverage under the group health plan within sixty days of the termination; or (ii) the employee or dependent becomes eligible for Medicaid or SCHIP assistance (with respect to the group health plan), and the employee requests coverage within sixty days after the eligibility determination date.

Employers are also required to notify employees in writing of any Medicaid and child health assistance available to them and their dependents to help pay for employer-sponsored health insurance.

The notice must let the employee know of any state Medicaid and child health assistance available to the employee if he/she needs financial assistance to pay for employer-sponsored health coverage. An employer may also use a State-specific model notice to be developed by the Secretaries of Labor and Health and Human Services.

An employer may satisfy the notice requirement by providing the notice along with certain other group health plan materials provided to the employee. The employer and group health plan administrator may each be fined up to \$100 a day for failure to comply with the notice requirement. The Act also requires a group health plan administrator to disclose, upon request by a State, information about the benefits available under the group health plan regarding the plan's enrollees who are covered under Medicaid.

To comply with the Act's requirements, employers must amend their group health plan documents to meet the requirements of new legislation. They should also update their policies and procedures regarding group health plans to ensure that employees are permitted to enroll in the group health plan under the Act if they meet applicable eligibility requirements and that employees are given proper notice of the availability of State programs.

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