

# Labor & Employment Law Alert

February 5, 2010

Allison D. Balus, Editor

*Practical and preventive information for managing  
your workplace*

## *CHIP Model Notice Published*

On February 4, 2009, the Children's Health Insurance Program Reauthorization Act of 2009 (the "Act") was signed into law. Within the Act, a requirement was set forth that the Department of Labor and the Department of Health and Human Services develop a model notice for employers to use to inform employees of potential opportunities currently available in the state in which the employee resides for group health plan premium assistance under Medicaid and the Children's Health Insurance Program ("CHIP"). The Department of Labor, on February 4, 2010, released this model notice ("Employer CHIP Notice") for use by employers in notifying employees of their rights under CHIP.

### **Employers Subject to the Employer CHIP Notice**

**Requirement.** For purposes of the Employer CHIP Notice requirement, an employer providing benefits (directly or through insurance, reimbursement, or other manner) for medical care in a state is considered to maintain a group health plan in that state. If that state provides medical assistance under a state Medicaid plan, or child health assistance under a state child health plan, in the form of premium assistance for the purchase of group health plan coverage, the Employer is required to provide the Employer CHIP Notice. The Department of Health and Human Services, in consultation with state Medicaid and CHIP offices, has informed the Department of Labor that, as of January 22, 2010, the following states offer one or

more programs that meet this standard: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.\*

Accordingly, if a group health plan provides benefits for medical care directly (such as through a health maintenance organization) or through insurance, reimbursement, or other manner to participants, beneficiaries, or providers in one of these states, the plan is required to provide the Employer CHIP Notice, regardless of the employer's location or principal place of business (or the location or principal place of business of the group health plan, its administrator, its insurer, or any other service provider affiliated with the employer or the plan).

**Employees Entitled to Notice.** An Employer CHIP Notice must inform each employee, regardless of enrollment status, of potential opportunities for premium assistance in the state in which the employee resides. The state in which the employee resides may or may not be the same as the state in which the employer, the employer's principal place of

\*The list of states meeting the CHIP standards and Material in this Article is provided from the Federal Register notice of Publication of the Model Notice for Employers to Use Regarding Eligibility for Premium Assistance Under Medicaid or CHIP and should be independently verified.

business, the health plan, its insurer, or other service providers are located.

**Timing and Delivery of Notice.** Employers are required to provide these notices by the date that is the later of (1) the first day of the first plan year after February 4, 2010; or (2) May 1, 2010. Accordingly, for plan years beginning between February 4, 2010, and April 30, 2010, the Employer CHIP Notice must be provided by May 1, 2010. For employers whose next plan year begins on or after May 1, 2010, the Employer CHIP Notice must be provided by the first day of the next plan year (January 1, 2011 for calendar year plans).

The model Employer CHIP Notice is available in modifiable, electronic form on the Department of Labor's website: <http://www.dol.gov/ebsa>.

### Adam L. Cockerill

## BAIRD HOLM<sup>LLP</sup>

ATTORNEYS AT LAW

### LABOR, EMPLOYMENT AND EMPLOYEE BENEFITS LAW OR RELATED SERVICES

Jill Robb Ackerman (1)  
Allison D. Balus (6)  
Kirk S. Blecha (1)  
Gary N. Clatterbuck  
Adam L. Cockerill (1)  
Steven D. Davidson (2)  
Alison A. Dempsey (1)  
Amy L. Erlbacher-Anderson  
Heidi A. Guttau-Fox (1)  
Christopher R. Hedican (5)  
David J. Kramer  
Kelli P. Lieurance (1)  
Lindsay K. Lundholm (1)  
Scott P. Moore (4)  
Scott S. Moore (3)  
R.J. (Randy) Stevenson (1)  
Quinn H. Vandenberg (7)  
Todd A. West (1)

*All attorneys are admitted to practice in Nebraska unless otherwise noted.*

*(1) Also admitted to practice in Iowa*

*(2) Also admitted to practice in Missouri*

*(3) Also admitted to practice in Iowa and Colorado*

*(4) Also admitted to practice in Iowa and Missouri*

*(5) Also admitted to practice in Iowa, Kansas, Missouri, Wyoming, Montana and South Dakota*

*(6) Also admitted to practice in Virginia and the District of Columbia*

*(7) Also admitted to practice in Massachusetts*

MEMBER

LEX MUNDI

THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS

*Labor & Employment Law Update* is intended for distribution to our clients and to others who have asked to be on our distribution list. If you wish to be removed from the distribution list, please notify [laborupdate@bairdholm.com](mailto:laborupdate@bairdholm.com).

BAIRD HOLM  
1500 Woodmen Tower  
1700 Farnam St  
Omaha, NE 68102  
402.344.0500  
402.344.0588  
[www.bairdholm.com](http://www.bairdholm.com)

©2010 Baird Holm LLP

\*The contents of this update are intended for general informational purposes only and should not be construed as legal advice. Readers are urged not to act upon the information contained in this publication without first consulting an attorney.