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## Employee Benefits Practice Group:

Ira H. Goldman  
(860) 251-5820  
igoldman@goodwin.com

Richard I. Cohen  
(860) 251-5803  
rcohen@goodwin.com

Natalie W. Welsh  
(860) 251-5828  
nwelsh@goodwin.com

Ali Haffner  
(860) 251-5091  
ahaffner@goodwin.com

Kelly Smith Hathorn  
(860) 251-5868  
khathorn@goodwin.com

Kimberly S. Cohen  
(860) 251-5804  
kcohen@goodwin.com

## Employers Must Provide Notice of Health Care Premium Assistance Under CHIPRA

The Children's Health Insurance Program Reauthorization Act of 2009 ("CHIPRA"), signed into law by President Obama last year, allows states to offer premium assistance subsidies to certain individuals to help them pay for employer-sponsored health coverage. CHIPRA also requires employers to notify employees of the premium assistance subsidies offered in the state where they reside (the "CHIPRA Notice Requirement"). **While Connecticut is not one of the states that currently offers premium assistance subsidies, Connecticut-based employers with employees who reside in other states that offer premium assistance are still required to provide the CHIPRA Notice to those out-of-state residents.**

Following is more information about which employers must comply with the CHIPRA Notice Requirement and how they may do so.

### Employers Subject to the CHIPRA Notice Requirement

The CHIPRA Notice Requirement applies to an employer that maintains a group health plan in a state that provides premium assistance through Medicaid or a state Children's Health Insurance Program ("CHIP") for the purchase of coverage under the group health plan. An employer is deemed to maintain a group health plan in each state where its covered employees reside, even if the employer itself is not located in that state. For example, if

an employer located in Connecticut maintains a group health plan that covers employees living in Connecticut and also employees living in Massachusetts, then the employer is treated under CHIPRA as maintaining its group health plan in Connecticut and Massachusetts.

As of February 16, 2010, forty states offer premium assistance programs consistent with CHIPRA. Currently, Connecticut is not one of those states, but surrounding states such as Massachusetts, New York and Rhode Island have elected to offer premium assistance subsidies. That means that any employer that maintains a group health plan that covers employees who reside in Massachusetts, New York or Rhode Island (or any of the other thirty-seven states that provide premium assistance) must provide a CHIPRA Notice to those employees.

### Satisfying the CHIPRA Notice Requirement

On February 4, 2010, the DOL posted on its website a model notice that employers may use to satisfy the CHIPRA Notice Requirement. Click here or visit <http://www.dol.gov/ebsa/chipmodelnotice.doc> for a copy of that model notice.

The CHIPRA Notice must be provided by the later of (1) the first day of the group health plan's first plan year beginning after February 4, 2010, or (2) May 1, 2010. Accordingly, for



employers with calendar year plans, the first CHIPRA Notice must be provided by January 1, 2011. Thereafter, the CHIPRA Notice must be provided annually. As a practical matter, the employer should aim to provide the CHIPRA Notice far enough in advance of its group health plan's open enrollment deadline to allow affected employees to make an informed decision about whether to enroll in the plan, given their eligibility for premium assistance.

The CHIPRA Notice may be provided in paper form or electronically, consistent with Department of Labor ("DOL") regulations. The DOL has explained that an employer may provide the CHIPRA Notice to only those employees who reside in a state that offers premium assistance, or it may send the Notice to all of its employees, if that is administratively easier. The employer may also furnish the CHIPRA Notice as part of the group health plan's open enrollment materials or with summary plan descriptions or other plan materials, provided that the CHIPRA Notice appears separately and in a manner that ensures employees will see it and appreciate its importance.

## **Assistance in Complying with the CHIPRA Notice Requirement**

You can download copies of the official guidance about the CHIPRA Notice Requirement, including a list of states that offer premium assistance programs, on the DOL website at <http://www.dol.gov/ebsa>. If you have any questions about, or need assistance in, complying with CHIPRA and the CHIPRA Notice Requirement, please contact Kelly Smith Hathorn or any member of our Employee Benefits Practice Group listed on page 1 of this alert.

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One Constitution Plaza  
Hartford, CT 06103-1919  
860-251-5000

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300 Atlantic Street  
Stamford, CT 06901-3522  
203-324-8100

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289 Greenwich Avenue  
Greenwich, CT 06830-6595  
203-869-5600

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12 Porter Street  
Lakeville, CT 06039-1809  
860-435-2539

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[www.shipmangoodwin.com](http://www.shipmangoodwin.com)

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