

New Legislation Requires New York Employers to Report Availability of Dependent Health Coverage

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New York State employers are now required to report the availability of dependent health insurance benefits on their quarterly wage reports and new hire reports, both of which are filed with New York State. This new law, entitled “Low Income Support Obligation and Performance Improvement Act” (the “Act”), which took effect on July 15, 2011, amends Sections 171-a and 171-h of the New York Tax Code (the “Code”). Among other things, the Act aims to facilitate the process of enrolling more children in employer-sponsored group health plans and ultimately increase the number of children covered under these plans.

Quarterly Reporting

Previously, Section 171-a of the Code required employers to report the name, social security number, and gross wages paid to each employee who resides, or is employed, in New York State on Form NYS-45 (Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return). The Act now requires that employers also report on Form NYS-45 whether dependent health insurance benefits are available to these employees. Employers will be liable for penalties for failure to comply with the quarterly reporting requirements.

New Hire Reporting

Section 171-h of the Code previously required employers to report the name, address, and social security number of each newly hired or re-hired employee as well as the employers’ identification information on Form W-4, or an equivalent form, within 20 days of the date of hiring or re-hiring. Under the Act, employers must also disclose whether dependent health insurance benefits are available to these employees, and the date that the employee qualifies for the benefits, on Form IT-2104 (Employee’s Withholding Allowance Certificate) or Form IT-2104E (Certificate of Exemption from Withholding). Thus, if an employer chooses to report new hire information on Form W-4, it will also need to submit Form IT-2104 or Form IT-2104E. Alternatively, the new reporting requirements may be satisfied by submitting the required information online at www.nynewhire.com. Employers will be liable for penalties for failure to comply with the new hire reporting requirements.

New Reporting Forms Issued

It should be noted that Form NYS-45 is expected to be amended for quarterly reporting submissions, starting in the third quarter of 2011. Form IT-2104 and Form IT-2104E have already been revised to reflect these new requirements.

What Employers Must Do Now

- Work with your human resources department to determine whether dependent health coverage is available to employees, and if so, on what date following hire;
- Ensure that reporting processes comply with these new requirements; and
- Confirm that you are using the revised reporting forms.

If you have questions about this Advisory, or completing any of the required forms or reporting the applicable information, please contact one of the following:

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