

Publications

New Illinois State Law Imposes Group Health Coverage Disclosure Requirements on Certain Employers with Illinois Employees

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On August 27, 2021, the “Illinois Consumer Coverage Disclosure Act” (SB 1905) (“CCDA”), was signed into law. The CCDA went into effect immediately, and applies to all employers who offer insurance under an employer sponsored health plan to employees who work in Illinois.

Covered Employers

The CCDA applies to any individual, partnership, corporation, association, business, trust, person, or entity for whom employees are “gainfully employed” in Illinois. There is no minimum number of employees needed for the law to apply. Also, this mandate defines employee as any individual who is permitted by the employer to work. So the mandate arguably applies to non-employees.

Required Disclosures

The CCDA requires a covered employer to provide:

- a written list of the benefits included in its group health insurance coverage; and
- a comparison of those benefits to the essential health benefits that must be covered under Get Covered Illinois, the health insurance marketplace for the State of Illinois.

This information must be provided in a format that allows employees to easily compare the employer-provided benefits with the benefits offered through Get Covered Illinois.

Employers may disclose this information by emailing the information directly to employees or by posting the information on a website that employees can regularly access.

Essential Health Benefits

The Illinois Department of Insurance (IDOI) is required to provide information outlining the essential health benefits under Get Covered Illinois. IDOI currently lists the essential health benefits on its website^[1]. Those essential health insurance benefits include: (1) outpatient services, (2) emergency services, (3) hospitalization, (4) pregnancy, maternity, and newborn care, (5) mental health and substance abuse, (6) prescription drugs, (7) rehabilitative and habilitative services, (8) laboratory services, (9) preventive and wellness services including chronic disease management, and (10) pediatric services for children including vision and dental care. Employers may use this information to inform eligible employees of benefits included or not included in their health insurance coverage.

Timing of Disclosures

Employers must provide this disclosure to eligible employees at the following times: (i) upon hire, (ii) each year thereafter, and (iii) upon request. Employers are required to keep documentation that each employee received the required information and keep that documentation for one year.

Penalties for Noncompliance

The Illinois Department of Labor (IDOL) has authority to enforce the provisions of the CCDA.

- IDOL can request that employers demonstrate that each employee received the disclosure. If IDOL finds an employer violation, it will give the employer 30 days to comply with the law. IDOL may impose a penalty if the employer fails to correct any such violation within that 30 day period.
- In addition, IDOL has the authority to respond to written complaints of noncompliance by conducting a hearing pursuant to the Illinois Administrative Procedure Act. If the reported violations are supported by evidence, IDOL may determine and impose a civil penalty.

IDOL can impose a wide range of fines for noncompliance, ranging from \$500 to \$5,000 per offense, depending upon the size of the employer, the number of offenses, the good faith efforts made by the employer to comply with the Act, and the gravity of the violations in assessing the appropriate penalty. Once the penalty is determined, IDOL may recover the amount in a civil action brought in any Illinois circuit court.

If you have any questions about application of the CCDA to your group health plan, please contact your Vorys benefits attorney.

[1] <https://www2.illinois.gov/idol/FAQs/Pages/Consumer-Coverage-Disclosure-FAQ.aspx#qst1>