

New Quarterly Wage and New Hire Reporting Requirements for New York Employers

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Beginning July 15, 2011, New York State employers will be required to report whether dependent health insurance benefits are available to their employees, in accordance with the Low Income Support Obligation and Performance Improvement Act (the "Act"). The purpose of the new reporting requirement is to increase the number of children enrolled in health insurance programs by requiring employers to report on the availability of dependent health insurance on both quarterly wage and new hire reports.

The New Reporting Requirements

By amending New York Tax Code Sections 171-a and 171-h, the Act adds to an employer's reporting obligations with respect to both quarterly wage and new hire reports.

First, with respect to quarterly wage reporting, the New York Tax Code previously required employers to report to New York State the name, Social Security number and gross wages paid to each of its employees who either reside in or is employed in New York State. Under the Act, employers also will now be required to report if dependent health insurance benefits are available to these employees. This reporting is required to be disclosed on the NYS-45 (Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return). The NYS-45 is expected to be revised shortly to include a new entry for the availability of dependent health insurance benefits beginning with the third quarter of 2011.

Second, with respect to new hires, the Act expands upon an employer's current requirement to furnish to New York State a report that includes information about each newly hired or re-hired employee who works in the state. Employers now also must report whether dependent health insurance benefits are available to a newly hired employee and, if so, the date that the employee qualifies for such benefits. This new information must be reported on Form IT-2104 (Employee's Withholding Allowance Certificate) or Form IT-2104-E (Certificate of Exemption From Withholding), both of which were updated in May 2011 to reflect this new requirement, or by submitting the information electronically at www.nynewhire.com. It is important to note that, while employers could previously fulfill their new hire reporting obligations by submitting a Form W-4 to New York State, that form alone will no longer suffice.

Impact on Employers

New York State employers should ensure they are in compliance with these new quarterly wage and new hire reporting requirements. Employers utilizing payroll providers to file quarterly wage and new hire reports should coordinate with the payroll provider to determine how to identify and report employees who qualify for dependent health coverage.

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The purpose of this Alert is to provide a general overview of the new quarterly wage and new hire reporting requirements under the Low Income Support Obligation and Performance Improvement Act. Please contact your relationship attorney at Proskauer if you would like more detailed guidance on this subject.

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