

Special points of interest:

- **DOL RELEASES NEW USERRA NOTICE**
- **USE OF INTERPRETERS DEALING WITH PHI**
- **SPANISH-LANGUAGE VERSIONS OF TWO MODEL COBRA NOTICES**

DOL Releases New USERRA Notice of Rights and Benefits

The January 2005 BAS Monthly Newsletter addressed the Health Coverage and Notice Requirement provisions of the Veteran's Benefits Improvement Act of 2004 (VBIA).

Notice Requirement: VBIA requires employers to provide those who are eligible for rights and benefits under Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA) with a notice of those rights, benefits and obligations under the law. The law specifies that posting a notice in a prominent place where other required notices are customarily posted may satisfy this notice requirement.

The DOL has issued the text of the notice and also put the content into a poster format, entitled "Your Rights Under USERRA." Employers can print out the poster and post it where employee notices are customarily placed or employers can

provide the notice to employees in other ways, such as handing it out, mailing it or e-mailing it. The poster includes information on health plan continuation rights and health plan reinstatement rights, among other things.

For a copy of the poster:

www.dol.gov/vets/programs/userra/poster.pdf

For a copy of the Notice of Rights and Duties Under USERRA, 70 Fed. Reg. 12105 (Mar. 10, 2005):

edocket.access.gpo.gov/2005/pdf/05-4871.pdf

For a copy of the news release:

www.dol.gov/opa/media/press/opa/OPA20050338.htm

Use of Interpreters Dealing with Protected Health Information Does Not Require Individual Consent

Source: US DHHS, Office for Civil Rights, 3/8/05, www.hhs.gov/ocr/hipaa

The Department of Health and Human Services' Office of Civil Rights posted a new "Frequency Asked Questions" pertaining to the privacy rule: An individual's authorization to use or disclose protected health information is not required by a covered entity (payor, provider or clearinghouse) when using an interpreter. (45 CFR 164.506(c))

A covered entity might use interpreter services to communicate with patients who speak a language other than English or who are deaf or hard of hearing, and provision of interpreter services usually will be a health care operations function of the covered entity as defined at 45 CFR 164.501.

- The interpreter may be a member of the covered entity's workforce (i.e., a bilingual employee, a contract interpreter on staff, or a volunteer) as defined at 45 CFR 160.103;

- A covered entity may engage the services of a person or entity, who is not a workforce member, to perform interpreter services on its behalf, as a business associate, as defined at 45 CFR 160.103.
- A covered entity may disclose protected health information as necessary for the business associate to provide interpreter services on the covered entity's behalf, subject to certain written satisfactory assurances set forth in 45 CFR 164.504(e).

For a copy of the Model General Notice: <http://www.dol.gov/ebsa/ModelGeneralNoticeSP.doc>

DOL POSTS SPANISH-LANGUAGE VERSIONS OF TWO MODEL COBRA NOTICES ON ITS WEBSITE

For a copy of the Model Election Notice: <http://www.dol.gov/ebsa/ModelElectionNoticeSP.doc>

The DOL has posted on its website Spanish-language versions of its model initial COBRA notice (which the DOL calls the "general notice") and its model COBRA election notice. These model notices were issued in English as part of the DOL's May 2004 final regulations, which apply to COBRA notice obligations arising in plan years beginning on or after November 26, 2004 (January 1, 2005 for calendar-year plans).

COBRA does not require that notices be provided in any language other than English but these Spanish-language versions of the model notices will undoubtedly be helpful when providing COBRA information to Spanish-speaking participants. BAS will provide the notices in English only.