



New Jersey “Mini-COBRA”

New Jersey Small Employer Continuation Coverage Rules

The New Jersey Continuation Coverage Rules (NJCCR) mandate the continuation of health insurance coverage for certain employees, their spouses and dependent children.

Most employers are familiar with the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA applies to employers that offer their employees health coverage and have employed 20 or more workers for at least 50 percent of the business days during the preceding calendar year. Although COBRA does not apply to small employers with 19 or less employees, the NJCCR, which is sometimes referred to as “NJ Baby COBRA” or “NJ Mini-COBRA,” pertains to employers that offer their employees health coverage and employ between two and 50 eligible employees, the majority of whom are employed in New Jersey, for at least 50 percent of the business days during the preceding calendar year quarter. Employees who qualify under COBRA are ineligible for coverage under NJCCR.

Navigating through the NJCCR can be tricky, but employers should ensure that they understand precisely what is required of them in terms of who is eligible for coverage, what events may qualify eligible employees for coverage, when coverage begins and ends, and what notices must be provided to eligible employees. Noncompliance, even where it is inadvertent, can lead to substantial financial liability. To assist employers with these tasks, an overview of the basic rules and requirements is provided below.

Who Is Eligible Under NJCCR?

- Employees terminated other than for cause.¹
- Employees whose work hours have been reduced below 25 hours per week.
- Spouses and dependent children in the event of death, divorce or a dependent child ceasing to be an eligible dependent (e.g., by reason of age or loss of full-time student status).

What Is a Qualifying Event?

- Termination of employment
- Reduction in work hours
- Death of employee
- Divorce of employee from spouse
- Dependent child ceases to be an eligible dependent (e.g., by reason of age or loss of full-time student status)

Duration of Coverage

- 18 months for employee in the event of termination of employment or reduction in work hours.
- 36 months for spouse and dependent children in the event of the death of employee, divorce of employee from spouse or cessation of dependent child status.
- 29 months for employee who is determined to have been disabled under the Social Security Act at time of termination of employment or during first 60 days of continuation of coverage; if employee is no longer disabled, continuation of coverage terminates on later date of 18 months or month beginning more than 31 days after date of final determination that employee is no longer disabled.

Notification Requirements

- Employer’s health benefits carrier must notify employees of their continuation rights in the certificate of coverage at the time of enrollment.
- Employer must notify employees of their continuation rights at the time of a “qualifying event.”
- Employer notifications should be in writing and include each of the following:
 - Allowable duration of continued coverage
 - Date on which written election of continued coverage is due to employer

¹ “Cause” is not defined in the NJCCR.

- Monthly premium that must be paid to continue coverage and the monthly payment due date
- Time and manner in which the monthly premium is to be paid²
- Employees, spouses and dependent children must make a written election for continued coverage within 30 days of the “qualifying event.”

Costs of Continued Coverage

- Employers may charge up to 102% of premium costs.
- Where employee is determined to have been disabled under the Social Security Act, employer may charge up to 150 percent of premium for months 19 through 29.

When Continued Coverage May Terminate

- Employer ceases to provide any health benefits to any employee or other qualified beneficiary.
- Continued coverage ceases by failure to make a timely payment of any premium by the former employee, spouse or dependent child.³

- Qualified beneficiary becomes covered under any other health benefits plan that does not contain a provision limiting or excluding coverage with respect to any preexisting condition.
- Qualified beneficiary becomes eligible for Medicare.

Costs of Continued Coverage

This overview of the general framework of the NJCCR does not address all of the statutory and regulatory requirements or the interaction with federal and/or state laws that may apply to health insurance benefits for domestic partners or older children otherwise ineligible for coverage under health insurance benefits provided to their parents. Employers should consult legal counsel regarding the specifics of applicable statutory and regulatory requirements. If you need more information about the NJCCR and/or your obligations as an employer, or if you would like to receive sample notices and other forms, please contact a member of Fox Rothschild’s Labor & Employment Department.

² No premium payment shall be due before the 30th day after the date of the initial election for continued coverage.

³ The payment of any premium is timely if made within 30 days after the due date or within any longer period provided in the policy or contract.



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