



LABOR & EMPLOYMENT DEPARTMENT

ALERT

PENNSYLVANIA EXTENDS GROUP HEALTH BENEFITS TO FORMER EMPLOYEES OF SMALL EMPLOYERS

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Pennsylvania has a new state law which requires that the opportunity to continue group health coverage be provided to employees of small employers. This “mini-COBRA” legislation becomes effective on July 10, 2009 and applies to Pennsylvania employers with between 2 and 19 employees.

The law requires insurers to provide the opportunity to continue group health coverage to certain employees and eligible dependents who would otherwise lose coverage. An employer is required to notify former employees and others of their right to continue group health coverage.

The motivation for the legislation was the federal stimulus bill which provides certain employees who are involuntarily terminated from employment on or before December 31, 2009, and their dependents, with a COBRA subsidy. The subsidy allows the employee to pay only 35% of the health insurance premium with taxpayers picking up 65%. The Pennsylvania legislation will extend the subsidy to reach eligible employees and their dependents at employers with fewer than 20 employees. Although the federal subsidy is scheduled to end, the Pennsylvania law has no sunset provision.

Under the new law, a covered employee or eligible dependent who suffers a “qualifying event” causing the loss of health coverage is eligible to elect continued coverage for up to nine additional months. However, the employee or eligible dependent may only elect continued coverage if he or she was covered under the group health plan for the entire three-month period preceding the “qualifying event.” Qualifying events include, but are not limited to, the death of the employee, termination of employment for reasons other than gross misconduct, and divorce. Employees who are eligible for Medicare or who are eligible for or covered by other group health insurance are not eligible to extend benefits or to receive the federal subsidy.

After electing continued coverage, premiums (which can be increased to 105% of the cost of group health coverage) must

be remitted monthly. If the cause of the loss in coverage is involuntary termination of employment between July 10, 2009 and December 31, 2009, the 65% federal subsidy is available for up to nine months for eligible participants. Involuntary termination generally means severance from employment because of the unilateral decision of the employer to terminate the employee.

Employers have several obligations under the new law. Employers must notify the administrator of the group health plan, the covered employee and the insurer of any qualifying event, within thirty days of the qualifying event. The notice given to the covered employee must include notice of the employee’s right to continue group health benefits. This notice should be given in writing and should include contact information for the health insurer. The U.S. Department of Labor has provided a “Model Alternative Notice” to provide to employees eligible for state continuation coverage. However, the model notice will need to be modified to conform to Pennsylvania law and a different notice will need to be used after the subsidy is no longer available. That model notice can be found at:

<http://www.dol.gov/ebsa/COBRAmodelnotice.html>.

Employers will need to closely coordinate with their health insurer so that proper notice is provided to covered employees.

After the covered employee has been properly notified, he or she will have 30 days to notify the Plan Administrator of the decision to elect continuation coverage. Within 14 days of receiving the employee’s decision, the Plan Administrator must notify the insurer of the employee’s decision.

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