

Pennsylvania's Mini-COBRA Law

WHAT IS IT?

On June 10, 2009, Governor Edward G. Rendell signed Act 2 of 2009 which amends the Insurance Company Law of 1921 to create a Mini-COBRA requirement for small employer group health policies. This Act will take effect on July 10, 2009.

SPECIAL ENROLLMENT RIGHTS

Pennsylvania-based businesses employing between 2 and 19 employees are now required to provide state Mini-COBRA benefits through their insured group health plan. Prior to this legislation, only employees working for companies with 20 or more employees were eligible for federal COBRA benefits.

Of immediate concern is that the Mini-COBRA law extends the ARRA 65% federal subsidy in COBRA premiums for up to 9 months for workers who are involuntarily terminated from small businesses on or after July 10, 2009, through December 31, 2009. There is a provision in place to prolong the qualification period for this program if the federal program is lengthened. Note: The federal COBRA subsidy that is now made available through Pennsylvania's Mini-COBRA law has an indexed earning phase out provision which means that if an individual earns more than \$125,000 (\$250,000 for a married couple filing a joint tax return) over the course of the year, any premium assistance will be recaptured by an increased tax liability. To avoid this tax consequence, the former employee may delay or completely forgo the premium assistance if he thinks he may earn this amount.

Federal COBRA benefits and Pennsylvania Mini-COBRA benefits both extend healthcare coverage under the employer's insurance plan to employees and their eligible dependents that experience a qualifying event. Just as with the federal COBRA benefits, a qualifying event is defined as the loss of healthcare coverage, whether due to the employee's job loss or a spouse's job loss, the employee's death, divorce, birth of a child or losing eligibility as an eligible dependent. Eligible dependents are limited to the employee's spouse and dependent children, as under federal law. Among the notable differences between the federal and state requirements are that the state Mini-COBRA coverage is only required for a period of 9 months, instead of the federal requirement of 18, 29 or 36 months and the employer may charge an eligible beneficiary up to 105% of the group premium rate, instead of the federal COBRA 102%.

Pennsylvania's Mini-COBRA benefits are only available with respect to an employee who has been continuously insured under the employer's group policy during the entire three-month period that ends with the qualifying event. Continuation coverage is not available for any person who:

- is covered or eligible for Medicare;
- is covered or eligible for another insured or uninsured health care benefit arrangement; or
- fails to maintain eligibility under employer based group health plan as an eligible dependent.

Continuation coverage under Pennsylvania's Mini-COBRA law will terminate upon the first to occur of the following: (i) the date 9 months after the date the covered employee's or eligible dependents' coverage under the group health plan would have terminated due to a qualifying event; (ii) the date the employee fails to make timely payment of required premium contributions; (iii) the date on which the group health plan is terminated; or (iv) upon written notice that the employee or eligible dependent has become eligible for Medicare or another insured or uninsured health care benefit arrangement.

INITIAL NOTIFICATION REQUIREMENTS

The employer must notify 1) the plan administrator for its own ERISA group health plan, 2) the covered employee, and 3) the insurer within 30 days of the qualifying event. Notice to the covered employee must include his rights under the Mini-COBRA law.

Election of continuation coverage – Each covered employee or eligible dependent must notify the plan administrator of his election of continuation coverage within 30 days of receiving the initial notification from the plan administrator. If the employer has not designated a plan administrator, it must act as the administrator.

Notification of continuation coverage election – The plan administrator must notify the insurer within 14 days of the covered employees or eligible dependents election.

MORE INFORMATION

For more information on Insurance Company Law of 1921 section 635.4 Mini-COBRA small employer group health policies, go to: <http://www.ins.state.pa.us/ins/cwp/view.asp?a=1274&Q=550035&PM=1>

Toll-free, Automated Consumer Hotline: 1-877-881-6388.

For more information on complying with Mini-COBRA, contact the **Conrad Siegel Actuaries** Health and Welfare Compliance Committee at 717-652-5633 or email the committee at hwcompliance@conradsiegel.com.

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