

## **What Employers Need to Know About Pennsylvania's Mini COBRA Law**

On June 10, 2009 Governor Edward G. Rendell signed Pennsylvania's Mini-COBRA law, which gives employees of small businesses who receive health insurance from their employers the right to purchase continuing health insurance after they leave employment. The Act went into effect on July 10, 2009.

Pennsylvania's Mini-COBRA is similar to the federal COBRA law, however there are important differences. The federal COBRA law applies to businesses with 20 or more employees while Pennsylvania's Mini-COBRA law applies to employers with 2-19 employees. Additionally, while the federal COBRA law provides for continuing health coverage after an employee leaves employment for 18 months and in some cases 36 months after their employment ends, in comparison, Pennsylvania's Mini-COBRA provides for continuing coverage for 9 months. While under Federal COBRA the employer is ultimately responsible for compliance, including proper notification to eligible individuals, under Pennsylvania law, the insurer is mostly responsible for compliance with the Act.

A covered employee and their eligible dependents who lose group health insurance coverage as a result of a qualifying event are eligible for Pennsylvania's Mini-COBRA continuation coverage. To be eligible, the covered employees and dependents must have been continuously insured under the group policy for 3 months. If an employee is covered or eligible for coverage under Medicare, continuation coverage is not available. Additionally, an individual is ineligible if he is covered under a different employer-based group health insurance plan or any other insured or uninsured group health coverage arrangement, excluding Medical assistance, CHIP, and adultBasic. Pennsylvania's law applies to insured group major medical, hospital or surgery policies. It applies only to insured arrangements but not self-insured programs.

There are several "qualifying events" that trigger continuation coverage. These are (1) death of covered employee; (2) termination of employment, either voluntary or involuntary, but not for the employee's gross misconduct; (3) reduction in hours; (4) divorce or legal separation; (5) eligibility for Medicare; (6) dependent child ceasing to be dependent, and (7) bankruptcy of the employer. The trigger date for Mini-COBRA benefits is the date the employee's insurance coverage terminates. Eligible employees cannot be denied Mini-COBRA coverage if the employee has a serious illness.

Employers are required to notify employees of their rights under Pennsylvania's Mini-COBRA law once health insurance ends due to a qualifying event. Also, an employer must give notice of the qualifying event to the plan administrator, if different than the employer, the covered employee and the insurance company within 30 days of the qualifying event. While the new law does not specify how notices must be provided, employers are well-advised to keep proof of mailing.

Once the employer gives an employee notice of rights under Pennsylvania's Mini-COBRA, the employee or employee's dependent must give notice to the administrator within 30 days of receiving notice of the qualifying event. If the employee elects Mini-COBRA, the employer must give notice to the insurance company of the election within 14 days of election. The continuation coverage will begin as of the date the prior group coverage ended without any break in coverage.

The continuation coverage must include any benefits provided under the group policy. The covered employee or eligible dependent must pay to the administrator on a monthly basis, the premium to continue coverage. The premium charged may be up to 105% of the group rate. Employers are not required to contribute to the deductible of the employee holding a Health Savings Account or other medical spending account as a component of the group policy after the termination date. During the 9-month period of continuation coverage, coverage continues unless the recipient becomes eligible for Medicare or other employer-based coverage, fails to pay premiums on time or the group policy is terminated. If an employee or eligible dependent is no longer eligible for the coverage, he must notify the administrator within 14 days of the triggering event.

If you have any questions about this topic or any other employment-related topics, please do not hesitate to contact me at 717-657-7770.

Debra R. Mehaffie  
Attorney-At-Law  
Scaringi & Scaringi, P.C.