

PENNSYLVANIA ENACTS MINI-COBRA LAW

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Pennsylvania joined a growing majority of states by enacting a “mini COBRA” law to provide former employees of smaller companies with an alternative opportunity to obtain health insurance.

Federal COBRA provides that employers who provide their employees with health insurance coverage and have at least 20 employees are required to offer continuing health coverage if an employee would lose their health benefits due to a “qualifying event” (such as termination of employment). Employers of fewer than 20 employees are exempt from this requirement. Many states have implemented “mini COBRA” laws, which impose similar requirements on small employers or insurers that provide group health insurance policies to such employers.

Like most mini-COBRA laws, the responsibility of notification and the provision of coverage under Pennsylvania law is primarily held by the insurer that provides the group health insurance contract. However, employers and plan administrators are responsible to notify the insurer of individuals becoming eligible for coverage within 14 days of the date the individuals lose coverage.

Pennsylvania’s version of mini COBRA (which became effective July 10, 2009) applies to group health insurance policies that are issued to employers with more than two but fewer than 20 employees. Under the new law, eligible employees (and their dependents) who lose group health coverage due to a “qualifying event” may elect to continue group health coverage at their own expense. Qualifying events which give rise to this

right generally parallel Federal law, and include termination from employment, divorce, death, or loss of dependent status. Unlike Federal COBRA, in order to be an eligible employee (or a dependent of an eligible employee), the employee must have been covered under the employer group policy at least three months prior to experiencing the qualifying event. Additionally, individuals who would otherwise be eligible for mini COBRA, but are eligible for Medicare, or become covered by other private group health insurance do not need to be provided with the extended mini-COBRA coverage. Eligible employees are given 30 days to elect Mini-COBRA coverage following their qualifying event. Note that, unlike Federal COBRA, Pennsylvania’s law only applies to health benefits, and not standalone dental or vision benefits.

Pennsylvania’s mini-COBRA law permits the individual electing coverage to be charged up to 105% of the total premium (both employer and employee portions) charged for group coverage. However, individuals who are involuntarily terminated between July 10, 2009 and December 31, 2009, and elect coverage through mini-COBRA, are eligible for a 65% premium subsidy from the Federal government under the American Recovery and Reinvestment Act of 2009.

If you need assistance in this area, please contact one of the following attorneys in our Employee Benefits & Executive Compensation Group.

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