



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM
& SMALL EMPLOYER HEALTH BENEFITS PROGRAM
PO Box 325
TRENTON, NJ 08625-0325

JON S. CORZINE
Governor

TEL (609) 633-1882
FAX (609) 633-2030

STEVEN M. GOLDMAN
Commissioner

ADVISORY BULLETIN
09-SEH-01

March 9, 2009

To: SEH Program Member Carriers that Issue Coverage
SEH Program Interested Parties

From: Ellen DeRosa
Executive Director

Re: Federal Stimulus – Application of the Group Coverage Continuation Subsidy to Persons Who Worked for New Jersey Small Employers

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act of 2009 (ARRA), commonly called the Stimulus Plan. ARRA provides for premium reductions and additional election opportunities for health benefits under Federal continuation, commonly called COBRA. Eligible individuals pay only 35% of the COBRA premium and the remaining 65% is reimbursed to the coverage provider (such as an insurance company or HMO or other plan) through a tax credit. The premium reduction applies to periods of health coverage beginning on or after February 17, 2009 and lasts for up to nine months.

Many New Jersey employees work for employers that are not subject to COBRA but are subject to the New Jersey continuation law at N.J.S.A. 17B:27A-27. The New Jersey continuation law provides for continuation that is comparable to COBRA and thus the ARRA applies to employees of New Jersey small employers that are not subject to COBRA. Most often these will be employers that employ fewer than 20 employees, but there are instances where New Jersey continuation applies to employers with 20 – 50 employees. An example would be a Church with 40 employees.

The purpose of this Advisory Bulletin is to address the vital role New Jersey small employer carriers must play in the implementation of the stimulus for employees electing continuation under N.J.S.A. 17B:27A-27. Additionally, we are posting information on the New Jersey Department of Banking and Insurance site, <http://www.state.nj.us/dobi/index.html>. Please read this Bulletin in conjunction with the information posted on the website.

This Bulletin is **not** intended to provide guidance with respect to the provisions of ARRA that are consistent for COBRA and New Jersey continuation. Wherever COBRA and New Jersey Continuation are consistent in terms of ARRA please be guided by the provisions stated for

COBRA.

Payment of 65% of Continuation Premium

While employers subject to COBRA continuation are responsible to pay 65% of the COBRA premium and then seek reimbursement as a payroll tax credit, employers subject only to State continuation provisions do not have a similar responsibility. Rather, ARRA requires the carriers to pay 65% of the continuation premium.

A continuee will be required to remit 35% of the continuation premium to the former employer. Such former employer will include such continuation premium with the monthly group premium and remit to the carrier. Such 35% payment must be considered payment in full and coverage may not be terminated for insufficient payment.

New Jersey continuation provides for a 31 day grace period for the payment of continuation premiums. Such grace period applies to the 35% payment.

Special Election Opportunity

Persons who were involuntarily terminated from September 1, 2008 through February 16, 2009, and who did not elect COBRA or elected COBRA but subsequently dropped it have a new election opportunity beginning February 17, 2009 and running for 60 days. New Jersey has determined that a similar special election opportunity must be allowed for persons for whom New Jersey Continuation is the applicable continuation law.

Enrollment in the New Jersey small employer market has been slowly declining for a couple of years. During the last quarter of 2008 we saw a dramatic decrease not just in covered lives but also in the number of employers offering coverage. With 2,041 fewer plans and 19,729 fewer covered lives in the last quarter of 2008 and similar if not greater decreases expected in the first quarter of 2009, we believe it both necessary and appropriate to extend a similar special election opportunity for New Jersey Continuation.

The special election period for New Jersey continuation shall apply to any person who was involuntarily terminated from a New Jersey small employer health benefits plan from September 1, 2008 through February 16, 2009 who either failed to elect New Jersey continuation or who elected, and then subsequently dropped the continuation. The election period will coincide with that applicable to COBRA, namely February 17, 2009 and running for 60 days, concluding April 18, 2009.

The election of continuation and payment of 35% of continuation premium must occur during this 60-day period. Coverage will be effective as early as February 17, 2009, and for calendar month periods of coverage, as of March 1, 2009. The duration of the continuation, however, will be measured from the loss of coverage, meaning the continuation period will be reduced by the time between the actual loss of coverage and the effective date. As is the case with the special election period for COBRA, such period for New Jersey continuation cannot be considered as a lapse in coverage for purposes of applying a new pre-existing condition exclusion.

Changing Plans

If an employer offers more than one small employer health benefits plan a continuee may switch to another plan offered by the employer provided: a) the other plan has the same or lower premium than the plan the continuee originally has: and b) the other plan is available to the class of employees to which the employee belonged prior to termination. Any such change must be requested during the special election period or during the 30-day continuation election period permitted under N.J.S.A. 17B:27. We understand that under COBRA this option is only available if the employer permits it. For New Jersey continuation it is not necessary to await the employer's permission.

General Information

Information concerning ARRA is found on the U.S. Department of Labor's website which is <http://www.dol.gov/ebsa/COBRA.html>

Questions

If you have any questions concerning treatment of assistance eligible individuals please contact me by email at ellen.derosa@dobi.state.nj.us or by phone at 609-633-1882 ext. 50302.