

March 23, 2009

Important Changes to COBRA and NJ State Continuation Law

New COBRA legislation will soon go into effect that will greatly change the way businesses must now administer federal and state health care continuation coverage (COBRA) for certain unemployed individuals and their families. The legislation is part of the American Recovery and Reinvestment Act (ARRA) that President Barack Obama signed into law on February 17, 2009.

The most significant element of the changes in COBRA is a new U.S. government subsidy to assist eligible individuals who recently lost their jobs involuntarily. The subsidy is also available to eligible persons covered by State Continuation programs (like those made available in New Jersey). Qualified beneficiaries, who have experienced involuntary termination of employment on or after September 1, 2008 and through December 31, 2009 and lost coverage under the group health plan as a result, may be eligible to receive a 65% subsidy of their COBRA premiums for **up to nine months** beginning March 1, 2009. The mechanism to implement the subsidy will require employers to adjust their payroll and tax filing procedures.

We are awaiting further guidance to be issued from the U.S. Department of Labor to fully understand the intricacies of the program. The following pages will provide you with a summary of the COBRA provisions as we understand them today. We expect there will be updates and refinements as we proactively seek more information from various Federal and State agencies.

Please read this notice in its entirety. You will be required to furnish AMT with additional information so that we can notify certain individuals of the change in COBRA or State Continuation.

YOUR ACTION IS REQUIRED

You, as the employer, must provide AMT with a detailed listing of all former employees terminated since September 1, 2008.

This information is necessary in order for AMT to inform those eligible people of the change in COBRA. Please be sure to return the enclosed worksheet to AMT within 7 days of receipt of this letter.

Please review the following pages to become familiar with the new COBRA and NJ State Continuation process, paying particular attention to the continuation billing process. **The employer is responsible for billing the “premium” to your former employee and collecting the subsidy from the government.**

The new legislation includes:

COBRA and State Continuation Subsidy

Qualified beneficiaries, who have experienced involuntary termination of employment on or after September 1, 2008 and through December 31, 2009 and lost coverage under the group health plan as a result, may be eligible to receive a 65% subsidy of their COBRA premiums for **up to nine months** beginning March 1, 2009.

As the employer responsible for billing your former employees for their COBRA or State Continuation “premium”, those that are eligible for the subsidy should only be billed for 35% of the required amount. You (the employer) must remit 100% of the required amount to AMT. You (the employer) will collect the 65% government subsidy by taking a credit for this amount from your payroll tax submission. IRS form 941 is being altered to allow for the credit. You may want to check with your payroll company and / or your accountant for any requirements or the steps necessary to coordinate the process.

All group health plans, except Flexible Spending Accounts (FSA), are eligible for the subsidy.

Election Period

Those individuals who would otherwise qualify for the COBRA subsidy but did not elect COBRA prior to the enactment date, or elected and are no longer enrolled as of the date of enactment, will have a second election period of 60 days with corresponding instructions. For NJ State Continuation this special election period of 60 days begins February 17, 2009.

New communication will be sent by AMT on your behalf to all active COBRA and NJ State Continuation participants indicating the qualifications for the subsidy with corresponding instructions, provided you forward the requested information to AMT within 7 days.

Eligible employees

To be eligible for the subsidy, an employee must be terminated, or have been terminated, from his or her employment during the period starting September 1, 2008, and ending December 31, 2009. Employees must have been terminated **involuntarily and not for reasons of gross misconduct**.

The participant cannot be eligible for coverage under another group health plan or Medicare. An individual will be required to notify the plan of a loss of COBRA subsidy entitlement if he or she is eligible for coverage under another group health plan or Medicare, and will be penalized for the failure to do so.

Individuals with an annual gross income between \$125,000 and \$145,000 (for single filers) or \$250,000 and \$290,000 (for joint filers) will have the subsidy phased out.

Individuals with an annual gross income exceeding \$145,000 (for single filers) or \$290,000 (for joint filers) are not eligible for the government subsidy.

There are no changes to the current COBRA eligibility period, i.e. length of time a former employee could continue coverage under COBRA or State Continuation.

Optional Coverage Offerings (Plan Enrollment Option)

Employers may (but are not required to) offer a subsidy-eligible qualified beneficiary the option of electing the coverage they had the day before the qualifying event or elect health coverage under an equal or lower premium (cost) plan offered to active employees. If you select this option, we will need to work together in servicing the subsidy eligible individuals interested in selecting an alternative plan.

The Department of Labor has created model notices to help plans and individuals comply with these requirements. Each model notice is designed for a particular group of qualified beneficiaries and contains information to help satisfy ARRA's notice provisions. AMT will forward the appropriate notice on your behalf to those employees that you have indicated were terminated September 1, 2008 to the present. The following notice descriptions are listed on the federal Department of Labor Website: (www.dol.gov)

Notice of Availability of Model Notices

General Notice (Full version) Plans subject to the Federal COBRA provisions must send the General Notice to all qualified beneficiaries, not just covered employees, who experienced a qualifying event at any time from September 1, 2008 through December 31, 2009, regardless of the type of qualifying event, AND who either have not yet been provided an election notice or who were provided an election notice on or after February 17, 2009 that did not include the additional information required by ARRA. This full version includes information on the premium reduction as well as information required in a COBRA election notice.

General Notice (Abbreviated version) The abbreviated version of the General Notice includes the same information as the full version regarding the availability of the premium reduction and other rights under ARRA, but does not include the COBRA coverage election information. It may be sent in lieu of the full version to individuals who experienced a qualifying event during on or after September 1, 2008, have already elected COBRA coverage, and still have it.

Alternative Notice Insurance issuers that provide group health insurance coverage must send the Alternative Notice to persons who became eligible for continuation coverage under a State law. Continuation coverage requirements vary among States, and issuers should modify this model notice as necessary to conform it to the applicable State law. Issuers may also find the model Alternative Notice or the abbreviated model General Notice appropriate for use in certain situations.

Notice in Connection with Extended Election Periods Plans subject to the Federal COBRA provisions must send the Notice in Connection with Extended Election Periods to any

assistance eligible individual (or any individual who would be an assistance eligible individual if a COBRA continuation election were in effect) who:

1. Had a qualifying event at any time from September 1, 2008 through February 16, 2009; and
2. Either did not elect COBRA continuation coverage, or who elected it but subsequently discontinued COBRA.

This notice includes information on ARRA's additional election opportunity, as well as premium reduction information. This notice must be provided by April 18, 2009.

We've included the following FAQ sheet to help answer possible questions you may have. Please review it but feel free to contact our office should you have any additional questions.

Please remember that we need that you complete the enclosed form outlining the terminated employees since September 1, 2008 and return to our office within the next 7 days.

Thank you for your cooperation.

Harvey I. Mishkin
COO