

NEW YORK STATE “Mini-COBRA” Changes

WHAT...are the changes?

- The COBRA legislation that was put into effect July 2009 was originally effective upon group contract issue date or renewal date and has been amended with a new effective date of November 1, 2009, regardless of when the group health contract was issued or renewed.

New York State “mini-COBRA” (employers under 20)

- New York State mini-COBRA applies to those groups who have less than 20 employees including part-time employees (excluding COBRAs and Retirees).
- This law states that group health coverage be extended from 18 months to 36 months for those who are enrolled in NYS “mini-COBRA”, regardless of the reason that the person has become ineligible for coverage.

Federal COBRA (employers over 20)

- Federal COBRA is for those groups with more than 20 employees including part-time employees (excluding COBRAs and Retirees).
 - Federal COBRA participants still are eligible for a continuation of benefits for 18 months, however, now at the end of those 18 months can opt for NYS “mini-COBRA” coverage and extend group coverage for an additional 18 months for a total of 36 months.
- This new legislation provides for a 60-day special open enrollment period for individuals whose COBRA coverage expired between July 1, 2009 and November 1, 2009. These individuals must be given the opportunity to elect an extension of their coverage for an additional 18 months, totaling no more than 36 months of total coverage.
 - The special enrollment period begins upon receipt of a notice of special enrollment from the insurer (insurance carrier).
 - If special enrollment election is made, the COBRA extension is effective **prospectively** no later than 30 days after the election and payment of the first premium. An employee or member cannot purchase retroactive continuation coverage.
 - Any gaps in coverage between July 1, 2009 and the effective date of the coverage issued during the special enrollment period will be disregarded for purposes of determining if a pre-existing condition waiting period is applicable and will not reduce the 36 months of total coverage available.

- **EXAMPLE:** John Smith's COBRA is terminated because his 18 months of COBRA is ended on September 30, 2009. He received notification from his insurer on January 25, 2010 that he is eligible for an additional 18 months of coverage. He completes the election form and returns it to the carrier with his premium. He is effective February 1, 2010 for 18 months of coverage.

HOW...to proceed?

- The obligation to notify eligible individuals falls on the insurer. The insurer must make reasonable efforts to provide written notice of the special enrollment period to all group policy or contract holders and former employees or members entitled to the special enrollment period by December 19, 2009. If they have not received notice yet, the former employee will have 60 days from the receipt of the notice to elect coverage.
 - It is encouraged that consumers contact the policy holder and the insurer if they do not receive notice in hopes that the policy holders will work with their insurer to properly identify those that were on COBRA and need to get back on and to make sure that notices get sent out from the insurer.
- For those individuals who become eligible for COBRA going forward, employers should continue to notify COBRA-eligible members of the additional 18 months. They can do this in one notice at the start of the COBRA period or send two notices, one at month 1 and another at month 18.
 - Employers under 20 – NYS “mini-COBRA” – who use the Federal COBRA notice (not the NYS notice), can modify the notice to state 36 months of coverage.
 - Employers over 20 who are subject to Federal COBRA and use the Federal COBRA notice can do one of two things:
 - 1 – add a sentence to notify of the additional 18 months of NYS “mini-COBRA”
 - 2 – a separate notification