

NYS COBRA CHANGES

On July 29, 2009, Governor David A. Paterson signed into law Chapter 236 of the Laws of 2009, which extends state continuation coverage to 36 months, regardless of the qualifying event. This extension will assist employees and their dependents who are eligible for federal COBRA coverage in fully insured products or New York State continuation coverage.

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) allows employees who work for employers with 20 or more employees to continue their current group health insurance once they leave employment or have a reduction in hours that makes them ineligible for employer-sponsored coverage. New York State continuation coverage, also known as "mini-COBRA," gives the same right to employees who work for employers with fewer than 20 employees.



Before the new state law went into effect, the length of time that a person could have state continuation coverage depended on why the person was losing coverage. Under the new law, all people eligible for state continuation coverage may continue their coverage for a total of 36 months, regardless of the reason for the coverage loss.

Under COBRA, if an employee loses coverage due to voluntary or involuntary termination of employment or reduction in hours, then coverage generally may be continued for up to 18 months from the date coverage would otherwise terminate. Under the new law, a person eligible for COBRA may elect 18 months of COBRA and 18 months of state continuation coverage, for a total of 36 months.

FREQUENTLY ASKED QUESTIONS

When does this law take effect?

The law effects policies or contracts issued, renewed, modified, altered or amended on or after July 1, 2009. For most policies, the new benefit will apply on the policy's annual renewal date. You can check with your Client Manager to determine your renewal date. Some carriers may implement this law for all group contracts on July 1, 2009. They appear to have the discretion to do so under this law.

How will an employee receive notice about the extended state continuation benefit?

The law did not change any notice requirements. If you have a qualifying event such as job loss, the employee will receive notice from the employer or employer's benefits administrator. The notice will provide instructions on how to elect COBRA or state continuation coverage.

Does this law change COBRA or state continuation coverage in any other way?

No. All current COBRA and mini-COBRA coverage laws will still apply. Also, health insurance benefits will remain the same. The only difference is that employees can continue their health insurance for up to 36 months rather than 18 months.

If an employee is entitled to federal COBRA, do they have additional continuation rights under New York law?

Yes. If an employee is eligible to continue health coverage under COBRA for 18 months, then they can continue coverage under state continuation coverage for an additional 18 months. Note, however, that they have up to a total of 36 months of coverage when combining the COBRA and state continuation benefits.

If the employer has a self-insured plan, does this law apply?

No. The law only applies to fully insured plans.

Does the size of the employer affect the length of time of continuation coverage?

No. Former employees will be allowed to extend their health insurance from 18 months to 36 months, regardless if they worked for a small employer or large employer.

Will employers have to pay the cost of the additional coverage?

No. Employees will continue to pay the premium cost.

Does this extension of continuation coverage apply to Healthy NY?

Yes. The extension applies to Healthy NY group contracts.

Does this extension of continuation coverage apply to contracts delivered outside of New York State?

No. The extension of continuation coverage does not apply to contracts delivered outside of New York State. A policy delivered outside of New York State is not subject to New York State law.

Does this extension of continuation coverage apply to health plans arranged by union funds?

Yes. The new law would apply to health plans provided by union funds, as long as the union fund is not self-insured. If the union fund is self-insured, they are exempt from this new law.

Does this extension of continuation coverage apply to dental plans?

No. State continuation coverage does not apply to dental plans, and therefore it cannot be extended to 36 months.

What if I need more information about this law?

Contact the Insurance Department's Consumer Services Bureau at (212) 480-6400 or 1-800-342-3736 or your Rose & Kiernan, Inc. benefit representative at (518) 244-4245.

This Summary is provided to you for general informational purposes only and does not include references to other legal resources (e.g., supporting regulations, or formal or informal opinions) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.