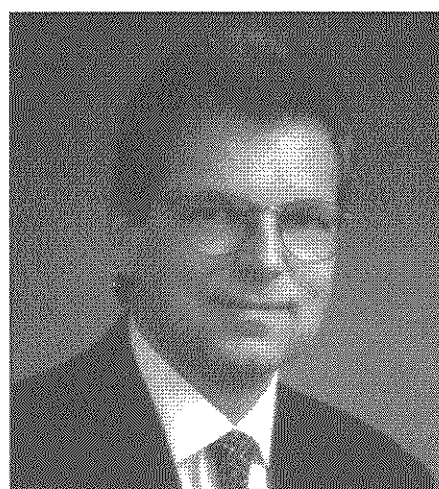


NJ "Continuation Coverage" for employees of small businesses with 2-19 employees

By Gary V. Cupo, CLU ChFC



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Ignorance of the law is no excuse! It is the employer's responsibility to know his or her obligations under the 1992 Small Employer Health Benefits Act. Ignoring this can cause unnecessary liability exposure to your company.

Just as COBRA (Consolidated Omnibus Budget Reconciliation Act, see January *NJMTA Bulletin*) caused confusion when the law was enacted, New Jersey's "Continuation Coverage" will present similar obstacles to overcome. As an employer, you must acknowledge that certain employees and their dependents have rights to continue their employer sponsored group health insurance program for up to 12 months. To ignore this can leave you self-insured without knowing it.

Employers are required that employees be offered continued coverage, at the employee's expense, under an employer-sponsored plan. This provision covers two "qualifying events": employees whose employment is terminated for other than cause, and any employee whose work hours are reduced to less than 30 hours, subsequent to the effective date of coverage for that employee. Employees must submit a written request for continued coverage within 30 days of termination or the effective date of the decrease in work hours.

Here is the Q & A section of advisory bulletin # 94-01A of the New Jersey Small Employer Health Benefits Program Board which addresses most commonly asked questions:

Q: What is the effective date for the New Jersey requirement for continuation of benefits?

A: This requirement applies to policies or contracts issued, renewed or continued to small employers on or after September 11, 1994.

Q: When should employees be notified of their right to continue under group coverage?

A: The law requires that notice must be provided to employees when they first commence coverage under the employer-sponsored health plan. We also recommend that employees be notified when they terminate coverage or when their work hours are reduced to less than 30 hours per week.

Q: What should be included in the notification to employees?

A: The law is not specific in this area but we suggest that the following information be provided to employees:

1. Statement that employees may elect to continue under the group policy for up to 12 months from the qualifying event. Eligibility for continuation may end sooner if the employee becomes eligible or covered under another plan. Include information as to whom employees should provide a written request if they choose to continue coverage.

2. Statement that employees have 30 days from the qualifying event to elect, in writing, to continue coverage.

3. The amount of premium to be paid and to whom the payment should be sent. The required premium payment shall not exceed 102 percent of the premium paid for similarly situated covered persons.

4. Statement that from the date employees choose to elect continuation coverage, the first payment is due after 30 days.

Q: What is meant by "terminated for a reason other than cause"?

A: New Jersey Small Employer Health Benefits Act is not specific but generally under New Jersey labor laws, "for cause" refers to gross misconduct.

Q: What effect might this continuation have on an employer's health benefits plan premium?

A: In the future it will not have any effect because the New Jersey Small Employer Health Benefits Act is eliminating the right of health benefits carriers to use claims experience to pay premiums. This change applies to newly issued coverage and to existing plans on their first 12-month anniversary date on or after September 11, 1994.

Q: What other option is available to departing employees who may decide that continuation under the group plan is too expensive?

A: A separate program now exists in New Jersey for individual health insurance coverage. Anyone can receive information on the available plans, the carriers who are selling coverage and current prices by calling Individual Health Coverage Board at 1-800-838-0935.

Q: Where can I find this statutory requirement?

A: The specific section in the Small Employer Health Benefits Act relating to continued coverage for employees can be found in N. J. S. A. 17B:27A-27.

NOTE: Provisions of federal COBRA continue to apply to groups with 20 or more employees. Cobra also uses a different definition of "employee".

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