

Pennsylvania Small Businesses Take Note: You Must Comply with the New Pennsylvania Mini-COBRA Law!

On June 10, 2009, Governor Rendell signed a bill into law providing for continued health insurance coverage similar to the federal COBRA law (“PA Mini-COBRA”), but applicable to Pennsylvania employers with 2 - 19 employees. Pennsylvania is now the 41st state with a “mini-COBRA” law covering small employers.

The federal COBRA law requires employers to provide employees and their covered dependents with an opportunity to elect continued health insurance coverage when such coverage would otherwise terminate because of a “qualifying event” (such as termination of employment). Employees are required to pay the full share of the premium at the employer’s normal rates and may add a small fee to cover the employer’s administrative costs of continuing the coverage.

Until now, small employers of 2-19 employees were not required to provide continuing health insurance coverage as the federal COBRA law only applies to employers with 20 or more employees. As a result, employees of small businesses faced staggering health care costs when forced to seek coverage without the benefit of group plan rates. Further, they could not access the 65% federal coverage subsidy available pursuant to the American Recovery and Reinvestment Act of 2009 (“Stimulus Plan”). The Stimulus Plan makes the 65% federal coverage subsidy available to employers covered by a state mini-COBRA law. Terminated employees whose employers are covered by the PA Mini-COBRA can take advantage of the 65% coverage subsidy.¹

Employers should be aware of the following key highlights of the new PA Mini-COBRA law:

- A “qualifying event” includes the termination of the employee’s employment (except for gross misconduct), divorce or legal separation, and the death of a covered employee.
- Coverage must be offered for a period up to nine months from the date coverage would have terminated, at the covered beneficiary’s cost, at a rate up to 105% of the normal cost of coverage.
- Employers must notify qualified beneficiaries of their rights under the law within 30 days of a qualifying event.
- The 65% Stimulus Plan subsidy is credited as reimbursement to the entity to which qualified beneficiaries pay their continuing coverage premiums. The reimbursement is in the form of a credit against payroll taxes. If the subsidy exceeds the payroll taxes owed, the federal government will reimburse the employer for the remainder. The qualified beneficiary must pay his/her 35% share of the continuing coverage premium before the employer can receive any the payroll tax credit.
- The 65% Stimulus Plan subsidy will not apply to employees whose employment terminated before July 10, 2009. The subsidy will remain available to employees terminated from July 10, 2009 through December 31, 2009.
- After December 31, 2009, eligible employees and their dependents will still be able to elect coverage under the PA Mini-COBRA, but will be responsible for the entire cost of the premium and administrative fee.

If you have questions concerning the applicability of the PA Mini-COBRA to your business, please contact any member of our Labor and Employment Group.

MEMBERS OF THE LABOR AND EMPLOYMENT GROUP

GINO J. BENEDETTI
CO-CHAIR
GBENEDETTI@DILWORTHLAW.COM

MARJORIE M. OBOD
CO-CHAIR
MOBOD@DILWORTHLAW.COM

KATHARINE V. HARTMAN
KHARTMAN@DILWORTHLAW.COM

JAY E. KAGAN
JKAGAN@DILWORTHLAW.COM

ERIC B. MEYER
EMEYER@DILWORTHLAW.COM

HOLLY R. ROGERS
HROGERS@DILWORTHLAW.COM

JENNIFER PLATZKERE SNYDER
JSNYDER@DILWORTHLAW.COM

MATTHEW I. WHITEHORN
MWHITEHORN@DILWORTHLAW.COM

This Update is published by
Dilworth Paxson LLP.
It is provided solely for informa-
tional purposes.
This is *not* legal advice.

1500 Market Street
Suite 3500E
Philadelphia PA 19102-2101
P: 215.575.7000
F: 215.575.7200

1. Because the PA Mini-COBRA law is new and allows for an administrative charge of up to 5% of the normal coverage premium (as opposed to the 2% administrative charge permitted under the federal COBRA law), it appears under IRS Guidance 2009-27 (Question 20) that the subsidy is limited to 65% of 102% of the normal coverage premium (rather than 65% of 105% of the normal coverage premium).

IRS Notice 2009-27 (Q&A 20): To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (a) avoiding penalties under the Internal Revenue Code or (b) promoting, marketing or recommending to another party any transaction or matter addressed herein.
