

CLIENT ALERT

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COMPARISON BETWEEN FEDERAL COBRA AND THE “MINI COBRA PLANS” OFFERED IN NJ, PA AND NY

As many as 40 states now offer some type of mini COBRA or State continuation. Employers must understand their obligations under these laws. COBRA is by far the most complex law with the most room for error. However, employers in New Jersey that have less than 50 employees and those in New York and Pennsylvania with less than 20 must know their obligations under the State Continuation Plans both when an employee signs up for coverage and when a participant becomes eligible for continuation benefits.

We encourage you to review this chart as a general guide as well as your state’s website to ensure that you are compliant.

NJ does not provide a sample model notices, but Advisory Bulletin 07-SEH-02 contains the following advice:

The SEH Board recommends that the following information be provided in writing to the employee:

- A statement that the employee may elect to continue under the group policy for up to 18 months from the qualifying event;
- A statement that the employee has 30 days from the qualifying event to elect to the employer in writing to continue coverage;
- A statement that the amount of premium to be paid and to whom the payment should be sent. The required premium payment shall not exceed 102% of the premium paid for similarly situated covered persons, or 150% for an employee that has been determined to have been disabled under the Social Security Act;
- The monthly premium due date; and
- A statement that the first payment of premium is due from the continuee within 30 days of the employee’s written election to continue coverage.

PA does provide a sample model notice at

<http://www.insurance.pa.gov/Coverage/Documents/PA%20Mini%20COBRA%20Model%20Notice%20Final%2003-27-2015.pdf>

The NY Continuation is out of date, but may be adjusted for a current time period -

http://www.dfs.ny.gov/insurance/circltr/2009/cl2009_10_form.rtf

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COMPARISON OF FEDERAL COBRA, NJ, PA AND NY “MINI COBRA” PLANS

	FEDERAL COBRA	NJ State Continuation	PA Mini COBRA	NY State Continuation
Covered Employers and Plans	Applicable to all group health plans maintained by private-sector employers with 20 or more employees, or by state or local governments. The law does not apply to plans sponsored by the Federal Government or by churches and certain church-related organizations.	Fully insured policies offered to employers with 2-50 eligible employees, including employers to which COBRA does not apply (such as church plans). Self Insured Plans are not subject to state continuation requirements.	Fully insured policies offered to employers with 2-19 eligible employees. Self Insured Plans are not subject to state continuation requirements.	Fully insured policies offered to employers with 2-19 eligible employees. Extended State Continuation to employers with 20 or more employees. Self Insured Plans are not subject to state continuation requirements.
Cost of Coverage	102% of Premium 150% of premium for 19-29 Months for Disabled COBRA participants.	Same as COBRA	105% of Premium	102% of Premium
Applicable Benefits	All ERISA Health Plans: Medical Dental Vision HRA Plans FSA Plans	Medical Coverage Only	Medical Coverage Only	Medical Coverage Only
Qualified Beneficiaries	The covered employee, the employee's spouse or former spouse, or the employee's dependent child. In addition, any child born to or placed for adoption with a covered employee during a period of continuation coverage is automatically considered a qualified beneficiary.	Same as COBRA, but also includes: Legal action occurs to dissolve a marriage, including legal separation, dissolution of a civil union or domestic partnership.	Same as COBRA but: 1. The eligible employee or dependent must have been enrolled in the Employer's plan for a minimum of 3 months. 2. May not be eligible for Medicare 3. May not be eligible for, or covered by other private health insurance	Same as COBRA

	FEDERAL COBRA	NJ State Continuation	PA Mini COBRA	NY State Continuation
Qualifying Events	<p>EMPLOYEE (and all covered dependents of employee):</p> <ol style="list-style-type: none"> 1. Termination of the employee's employment for any reason other than gross misconduct; 2. Reduction in the number of hours of employment. <p>DEPENDENTS:</p> <ol style="list-style-type: none"> 1. Covered employee becomes entitled to Medicare; 2. Divorce or legal separation of the spouse 3. Death of the covered employee. 4. Loss of dependent child status under the plan rules. 	<p>Same as COBRA, but also includes as a qualified beneficiary because of legal separation or dissolution of a civil union or domestic partnership.</p>	<p>Same as COBRA, but also includes in limited circumstances that bankruptcy of the employer.</p>	<p>Same as COBRA</p>
Length of Coverage	<p>18 Months - if the qualifying event is the employee's termination or reduction in hours of employment.</p> <p>36 Months – For dependents when the qualifying event is divorce, legal separation, employee's death, employee Medicare entitlement, aging out of the plan for children.</p> <p>29 Months - If a qualified beneficiary is disabled and meets certain criteria, all of the qualified beneficiaries receiving continuation coverage due to a single qualifying event are entitled to an 11-month extension.</p>	<p>Same as COBRA</p>	<p>Maximum duration is 9 Months</p>	<p>36 Months Under NY State Continuation</p> <p>Any COBRA beneficiary who has exhausted their COBRA Coverage of less than 36 months is eligible for a total of 36 months from the time COBRA began under NY Continuation.</p>

	FEDERAL COBRA	NJ State Continuation	PA Mini COBRA	NY State Continuation
Coverage Termination	Coverage may terminate earlier than the end of the maximum period for any of the following reasons: 1. Premiums are not paid in full on a timely basis; 2. The employer ceases to maintain any group health plan; 3. A qualified beneficiary begins coverage under another group health plan. 4. A qualified beneficiary becomes entitled to Medicare benefits after electing continuation coverage;	Same as COBRA	Same as COBRA	Same as COBRA
Required Notices	Initial Notice of COBRA Rights upon enrollment in a COBRA qualifying plan. COBRA Offer when a qualifying event occurs. (NOTE – offer is time sensitive and must be provided no later than 30 days after loss of coverage, or 45 days of an outside administrator is used.) If coverage is terminated early, the plan must provide the qualified beneficiary with an early termination notice. Open Enrollment – Any new offer or rate change.	Notice of Continuation Rights is required to be provided in the employee certificate of coverage by the carrier. State Continuation Offer when a qualifying event occurs. (NOTE – there is no specific time given that the employer must supply the offer by, but qualified beneficiaries must make their election for continuation no later than 30 days after the qualifying event) Open Enrollment – Any new offer or rate change.	No Initial Notice is required Mini COBRA Offer when a qualifying event occurs. (Note – offer is time sensitive and must be provided within 30 days of the qualifying event) Open Enrollment – Any new offer or rate change.	NY State Continuation Offer when a qualifying event occurs. (Note – there is conflicting information and the NY Insurance website does not state a time frame to provide this offer. Elsewhere a time limit of 5 days is indicated to provide the offer. Open Enrollment – Any new offer or rate change.

	FEDERAL COBRA	NJ State Continuation	PA Mini COBRA	NY State Continuation
Coordination with and Individual Plan	Once COBRA is elected, a participant may not drop COBRA to enroll in a Marketplace plan outside of the open enrollment period.	Same as COBRA	Same as COBRA	Same as COBRA
Special circumstance for Disabled Employees beyond COBRA, or State Continuation		When a covered employee terminates employment due to total disability, the employee may continue coverage (including coverage for his or her dependents) The employee must have been covered under the group health benefits plan at least three months prior to termination of employment. The employee may be required to pay the group rate for the continued coverage. An election must be made within 31 days after the date the coverage would otherwise terminate. FOR MORE INFORMATION: http://www.state.nj.us/dobi/division_consumers/insurance/cobra.html		
Special circumstance for dependent children who age out of plans		Fully-insured group plans must offer employers the option of providing coverage for dependents up to age 31. Employers must provide notices about this coverage.	Fully-insured group plans must offer employers the option of providing coverage for dependents up to age 30.	An unmarried child of an insured employee may continue health insurance coverage through age 29, regardless of financial dependence. However, there are eligibility requirements and coverage limitations