

CLIENT ALERT

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EMPLOYERS MUST EXERCISE CAUTION WHEN MAKING RETROACTIVE TERMINATIONS.....

In March of 2011, we e-mailed a Client Alert that explained how Healthcare Reform limits an employer's ability to make retroactive terminations. This is a very important aspect of your employee benefits program that bears repeating.

You can review the March 2011 Client Alert by going to the Client Alert section of our website. (http://www.chb-group.com/client_alerts_chb_group.html).

This part of Healthcare Reform became effective for employers on their first renewal after September 23, 2010 – So by now every employer is now subject to this.

Retroactive terminations called *Rescissions* under Healthcare Reform can only be made in situations where:

- They are done as part of a monthly reconciliation of eligibility and the participant did not pay any premium or contribution towards the cost of the plan, OR
- in cases of an act, practice or omission on the part of the participant that constitutes fraud, or a material misrepresentation of fact

If you do make a permissible retroactive termination, remember that you must provide a 30-day advance notice to all affected participants.

Some employers have taken the approach that it is safest to only cancel coverage on a prospective basis; while this eliminates any concern over whether a rescission is legitimate, it carries its own set of risks. Employers have a fiduciary responsibility to ensure that claim dollars are only spent on eligible participants. Further a carrier may want a retroactive termination in the case of an ineligible participant who has incurred high claims.

The best approach is to carefully audit your medical premium statement each month, make sure your employees understand who is an eligible dependent and require documentation for dependent coverage such as:

- Ø Marriage certificates
- Ø Proof of civil union or domestic partnership (If applicable)
- Ø Proof of common law marriage – where allowed
- Ø Birth certificates
- Ø Affidavits of dependency/court orders
- Ø Adoption papers

IMPORTANT INFORMATION REGARDING HOW CHB GROUP WILL HANDLE RESCISSIONS PROVIDED TO US BY OUR CLIENTS FOR TRANSMISSION TO THE CARRIER

It is up to the employer to ensure that when a retroactive termination is reported to CHB Group, and therefore the carrier, that the criteria for requesting the retroactive termination is satisfied. CHB Group will consider any such request as already confirmed compliant by the party submitting the request.

DISCLAIMER - This information is provided as an informational service and is not considered insurance, legal or tax advice. If you would like more information, please do not hesitate to contact our office.