

## New Jersey Health Insurance Continuance

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An employer who has less than 20 employees in New Jersey does not have to provide health insurance continuation coverage to employees, right? Wrong. According to New Jersey law, small employers (2-50 employees) that are not subject to the Consolidated Omnibus Budget Reconciliation Act (COBRA) must offer continuation of medical and hospitalization coverage for qualified employees and their dependents.

New Jersey continuance law requires that New Jersey small employers with as few as 2 employees provide continuance of medical and hospitalization coverage for qualified employees and their dependents. Small employers may, although they are not required to, provide continuation of dental insurance as well.

When is a small employer's duty to provide continuance coverage triggered under New Jersey law? When a "qualifying event" occurs. A qualifying event includes termination of employment, reduction of an employee's hours to less than 25 hours per week, death of an employee, an employee's divorce or the date a dependent child ceases to be an eligible dependent (because of loss of full-time student status or age).

A small employer must notify an employee of his or her rights to continuation of coverage at the time of the qualifying event. The law is not specific on the details of notice, but the New Jersey Small Employer Health Benefits Program Board recommends that an employee be: notified that he or she has thirty (30) days from the qualifying event to elect in writing to the employer to continue coverage; informed that continuation coverage is available for up to 18 months from the qualifying event; and provided with a statement of premium amount. The statement should include to whom the payment should be sent, the monthly premium date and a statement that the first payment of premium is due from the employee within thirty (30) days of his or her written election to continue coverage. Small employers should note that they can charge an administration fee, but that the required premium payment cannot exceed 102% of the premium paid by active employees for the same plan.

Small employers should also be aware that the duration of continuation coverage may differ depending on the former employee's circumstances. Coverage can last up to thirty-six (36) months for the former employee's spouse or dependent child in cases of death or divorce. Coverage can last up to twenty-nine (29) months in cases where an employee is determined to have been disabled under the Social Security Act.

When can a small employer terminate coverage? Other than when time runs out, a small business can terminate coverage in several situations. For instance, an employer can end coverage if the employee does not pay premiums on a timely basis. Payments are considered timely if made within thirty (30) days after the due date or within any longer period that may be provided for by the insurance policy or contract. Also, if the employer ends its group health plan for active employees, or the employee becomes covered under any other health benefits plan, or under Medicare, the small business employer can end continuation coverage.

**TAKEAWAY:** Under New Jersey law, even small businesses may have to provide continuation coverage of health insurance to employees who leave their employment.

### **Attorney**

- Stephanie D. Gironda