



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM
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ADVISORY BULLETIN
09-SEH-02

March 26, 2009

To: SEH Program Member Carriers that Issue Coverage
SEH Program Interested Parties

From: Ellen DeRosa
Executive Director

Re: Carrier Obligations in the Implementation of the American Recovery and Reinvestment Act of 2009 for New Jersey Small Employers that are Subject to New Jersey Continuation

On March 9, 2009 we issued Advisory Bulletin 09-SEH-01 discussing features of the American Recovery and Reinvestment Act of 2009 (ARRA) as related to New Jersey Continuation. Subsequent to that Advisory Bulletin the United States Department of Labor issued information that necessitates this new guidance.

The purpose of this Advisory Bulletin is to further address the vital role New Jersey small employer carriers must play in the implementation of the premium reduction for employees electing continuation under N.J.S.A. 17B:27A-27.

The Carrier is responsible for the following which are discussed in further detail below:

- ✓ Identify and send the following to all employees who terminated coverage between September 1, 2008 and December 31, 2009
 - Cover letter
 - New Jersey Continuation Election Form
 - Form for Switching Plan Options
 - Request for Treatment as an Assistance Eligible Individual
 - Employer Information and Verification
- ✓ Approve or Deny the Request for Treatment as an Assistance Eligible Individual (as verified by the employer)
- ✓ "Pay" 65% of the New Jersey Continuation Premium (refunded as payroll tax credit) for all Assistance Eligible Individuals
- ✓ Send Premium Reduction Ineligibility Information form to all Assistance Eligible Individuals

Cover letter

We have developed a ***cover letter*** that can be sent to all former employees. This letter explains the process to elect New Jersey Continuation as well as the premium reduction. A copy of the letter is attached. Carriers may either release it as a generic letter or may personalize it for each former employee.

Identify and send specified information to all employees who terminated coverage between September 1, 2008 and December 31, 2009

The identification of all employees who terminated between September 1, 2008 and December 31, 2009 will require carriers to review all termination notices the employer has provided or will provide for terminations during the specified period. In the event a Carrier is for some reason unable to identify such terminated employees the Carrier will need to contact all employers whose plans were in force during the period to request a list of terminated employees.

All employees who were terminated between September 1, 2008 and December 31, 2009 must be sent the following information.

New Jersey Continuation Election Form

Attached is a specimen New Jersey Continuation Election Form. Although the USDOL released an alternative notice that could be used for state continuation such notice required modification to address features unique to New Jersey Continuation. As Carriers are not responsible for providing notice of continuation rights except in connection with the ARRA premium reduction, this Election Form is designed to address that specific circumstance. Employers remain responsible for providing notification of continuation rights to all other persons whose coverage is being terminated.

Form for Switching Plan Options

Many employers offer more than one plan option. To the extent an involuntarily terminated employee was covered under one plan and the employer also offers another plan that would be the same or lesser cost, the former employee may switch coverage to such other plan. A specimen Form for Switching Plan Options is attached. Although the form instructs the former employee to check with the former employer regarding alternate plan options, it would be prudent for the carrier receiving the request to switch options to verify that the requested option is in fact available to active employees.

If a former employee previously elected New Jersey Continuation and is requesting to switch plan options coincident with applying for the premium reduction, the new plan option will be effective as of the start of the first period of coverage on or after the form is received. The coverage will **not** be retroactive to the commencement of continuation or even to the commencement of the premium reduction as such retroactive application would require re-adjudication of previously processed claims.

For all other requests to switch to an alternate plan option the effective date will coincide with the effective date of the continuation coverage.

Request for Treatment as an Assistance Eligible Individual

This form is based largely on the sample released by the USDOL. The carrier is responsible for determining whether to accept or deny the request. As the carrier will

have no knowledge as to whether the termination was in fact an involuntary termination, we have prepared a form that Carriers will send to the former employee to forward to the employer to complete to provide carriers with the necessary information.

Employer Information and Verification Form

As part of the packet of information Carriers send to terminated employees the Carrier should include the Employer Information and Verification Form. This form was designed to secure necessary information from the former employer to allow the Carrier to determine whether the Request for Treatment as an Assistance Eligible Individual should be approved. The former employee should send this form to the former employer to complete. If the former employer does not complete and send the Employer Information and Verification Form to the carrier the carrier should *deny* the request for treatment as an assistance eligible individual as such denial will lead to appeal rights with the U.S. Department of Health and Human Services.

Approve or Deny the Request for Treatment as an Assistance Eligible Individual

The former employer will send the Carrier the completed Request for Treatment as an Assistance Eligible Individual and the Employer Information and Verification form. The Carrier must act to either approve or deny the request.

“Pay” 65% of the New Jersey Continuation Premium

If the Request for Treatment as an Assistance Eligible Individual is approved the former employee will be responsible for 35% of the New Jersey Continuation premium. Once the Request has been approved a continuee will be required to remit 35% of the continuation premium to the former employer. Such former employer will include such continuation premium with the monthly group premium and remit to the carrier. Such 35% payment must be considered payment in full and coverage may not be terminated for insufficient payment. Some carriers have indicated they might just bill the 35% amount on the employer’s bill. Any means the Carrier wishes to use to ensure the former employee is only responsible for 35% of the continuation premium will be acceptable.

New Jersey continuation provides for a 31 day grace period for the payment of continuation premiums. Such grace period applies to the 35% payment.

For those former employees who previously elected continuation and paid the full continuation premiums during March and April, the carrier must refund or credit the 65% to the former employee for March and April.

Send Premium Reduction Ineligibility Information form to all Assistance Eligible Individuals

All former employees determined to be assistance eligible individuals must be sent a form they can complete if they become ineligible for the premium reduction. This form, which is based on the sample form released by the USDOL, is attached.

General Information

Information concerning ARRA is found on the U.S. Department of Labor’s website which is <http://www.dol.gov/ebsa/COBRA.html>

Information concerning New Jersey Continuation and ARRA is found on the Department of Banking and Insurance website which is http://www.state.nj.us/dobi/division_consumers/insurance/arra.html

Questions

If you have any questions concerning treatment of assistance eligible individuals please contact me by email at ellen.derosa@dobi.state.nj.us or by phone at 609-633-1882 ext. 50302.