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DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
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*Director*

January 2010

**TO:** Participating SHBP and SEHBP Employers  
**FROM:** New Jersey Division of Pensions and Benefits  
**SUBJECT: Required Notices To SHBP/SEHBP Enrollees - Updated for Plan Year 2010**

Federal law mandates employers to provide notice of requirements of certain pieces of federal legislation to employees and their dependents upon their enrollment in the employer's group health insurance. State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) participating employers must provide an initial notice concerning the Consolidated Omnibus Budget Reconciliation Act (COBRA) program and a notice about the federal Health Insurance and Portability Accounting Act's (HIPAA) privacy requirements.

In addition, Chapter 38, P.L. 2008, requires the SHBP and SEHBP to provide notice of the availability of coverage for over age children under the provisions of Chapter 375, P.L. 2005, upon the employees enrollment in the Program.

The attached documents provide everything you, as an employer, need to comply with the notice requirements of COBRA, HIPAA, and Chapter 38.

**Enclosure one** is a cover letter forwarding the required notices. You should modify this letter to reflect its being mailed from your location to the employee and dependents and include it with a copy of **enclosure two** (this consists of the initial COBRA notification marked *Important Notice* and a copy of Fact Sheet #30, *Continuation of Health Benefits Insurance Under COBRA*). **NOTE:** To meet federal requirements, the letter must be addressed to the "Employee and Family", it must be mailed (first class mail is sufficient), and a copy must be retained to prove compliance.

The next three enclosures address the federal Health Insurance and Portability Accounting Act (HIPAA). Federal law requires that all enrollees — employees and dependents — in employer provided health plans be notified every three years of HIPAA requirements and how the employer's plan compares with them. **Enclosure three** (*Notice to Health Benefits Program Participants About Compliance with Federal Health Insurance Requirements*) will meet this requirement. Every three years you are required to mail a copy to all of your enrolled employees in order to satisfy the requirement for proper notification of dependents. If you provided notification last year, you need not provide notification again until 2012.

**Enclosure four** is the *SHBP/SEHBP Notice of Privacy Practices*. A copy of the privacy practices should be mailed along with the enclosures mentioned above, or given to new employees when they enroll in any health plan.

**Enclosure five** is the *Certificate of Group Health Plan Coverage* which you may use to provide an employee or dependent whose coverage is ending with evidence of their prior health coverage.

**Enclosure six** is Fact Sheet #74, *Health Benefit Coverage of Children Until Age 31 Under Chapter 375*. The cost of coverage under Chapter 375 may be significantly less than similar coverage under COBRA for an eligible child. A copy of this fact sheet should be mailed along with the enclosures mentioned above, or given to new employees when they enroll in any health plan.

Additional information and printable versions of the attached forms can be found in the online Employer's Pensions and Benefits Administration Manual (EPBAM) at: [www.state.nj.us/treasury/pensions/epbam.htm](http://www.state.nj.us/treasury/pensions/epbam.htm)

Questions about this memorandum should be directed to the Division of Pensions and Benefits' Office of Client Services at (609) 292-7524 or sent by e-mail to: [pensions.nj@treas.state.nj.us](mailto:pensions.nj@treas.state.nj.us).

Enclosures

(COVER LETTER TO BE PUT ON  
EMPLOYER LETTERHEAD)

(DATE)

**TO:** (EMPLOYEE NAME) and Family

**FROM:** (EMPLOYER)

**SUBJECT: Notification of Health Benefits Rights Under Federal Law**

This letter provides information about health benefits that federal and State law requires your employer to send to you and your family members enrolled under State Health Benefits Program (SHBP) or School Employees' Health Benefits Program (SEHBP) coverage. Everyone enrolled under your coverage should read this information. You should keep this letter and the enclosed information for future reference.

The first enclosure (the initial notification marked *Important Notice* and a copy of Fact Sheet #30, *Continuation of Health Benefits Insurance Under COBRA*) concerns the federal program known as the Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA allows you or your covered dependents to extend health benefit coverage under the SHBP or SEHBP employee group in certain cases where you would otherwise lose that coverage. See the first enclosure for details about your rights under COBRA.

The second enclosure (*Notice to Health Benefits Program Participants About Compliance with Federal Health Insurance Requirements*) provides information about several federal laws. These include the Health Insurance Portability and Accounting Act (HIPAA), the Mental Health Parity Act, and the Newborns' and Mothers' Health Protection Act. These laws establish certain coverage requirements applicable to most employer health insurance plans. Certain plans, such as those in the SHBP or SEHBP, may exempt themselves from some of these requirements as long as participants of the plan are notified of the exemption. See the second enclosure for details about the Program's compliance with the health insurance coverage required by these federal laws.

The third enclosure (*SHBP/SEHBP Notice of Privacy Practices*) addresses privacy requirements under HIPAA and how the Program may use and/or allow access to your personal health information.

The fourth enclosure (Fact Sheet #74, *Health Benefit Coverage of Children Until Age 31 Under Chapter 375*) provides information about the coverage available to over age children who lose health benefit coverage prior to turning age 30.

There is nothing that you or your family members have to do as a result of this mailing. The sole purpose is to inform you of your rights under these federal and State laws and, by doing so, comply with the notification requirements contained in the laws. If you have any questions concerning this mailing, you should contact (EMPLOYER HUMAN RESOURCE/BENEFITS MANAGER CONTACT INFORMATION) or the Division of Pensions and Benefits' Office of Client Services at (609) 292-7524.

Enclosures

**INFORMATION ON THE  
CONTINUATION OF GROUP HEALTH INSURANCE COVERAGE  
FOR NEW EMPLOYEES AND DEPENDENTS  
UNDER THE PROVISIONS OF COBRA**

**IMPORTANT NOTICE**

**CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA) OF 1985**

Dear Employee and Family Members:

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 contains a provision pertaining to the continuation of health care benefits for persons enrolled for coverage through an employer group plan. COBRA requires that most employers sponsoring group health plans offer employees and their families who are losing coverage under the employer's plan the opportunity for a temporary extension of health coverage. This coverage, called continuation coverage, would be offered at group rates plus a small administrative fee, in certain instances where coverage under the plan would otherwise end.

This notice is intended to inform you of the rights and obligations under the continuation coverage provisions of the COBRA law should you ever lose the group health coverage provided through the New Jersey State Health Benefits Program (SHBP) or School Employees' Health Benefits Program (SEHBP).

This notice includes:

- COBRA Highlights
- Special Notices Concerning COBRA
- Fact Sheet #30, *Continuation of Health Benefits Insurance Under COBRA*

**Please take the time to read this notice carefully.** Specific action must be taken by the employer, the employee, and covered family members to ensure the continuity of benefits under COBRA.

## COBRA HIGHLIGHTS

### EMPLOYER REQUIREMENTS

- Notify all newly hired employees and their dependents, within 90 days of when they are first enrolled in the SHBP or SEHBP, of the COBRA provisions by mailing a copy of the notification letter to their home.
- Notify the employee, spouse, civil union or eligible domestic partner, and/or dependents of their rights to purchase continued health coverage within 14 days of receiving notice that there has been a COBRA qualifying event. An application form and rate chart should be made available with the COBRA Notice that gives the date of termination of coverage and the period of time over which coverage may be extended. The notification must be mailed to the employee and family at the home address on file and a record of this notification should be maintained.

### EMPLOYEE REQUIREMENTS

- The employee must notify the employer of a COBRA qualifying event such as divorce, legal separation, termination of a civil union or domestic partnership, or dependent child ceasing to be eligible for coverage. This must be done within 60 days of the qualifying event.
- The employee or “qualified beneficiary” must notify the Health Benefits Bureau of the Division of Pensions and Benefits of their decision to elect continued coverage by filing a COBRA application and submitting required premiums within 60 days of employer notification.

### SPECIAL NOTICES CONCERNING COBRA

1. If coverage under the plan is modified for group employees, the coverage will also be modified in the same manner for all COBRA eligible individuals electing continuation coverage.
2. If a second qualifying event occurs during the 18-month period following the date of employee's termination or reduction in hours, the beneficiary of that second qualifying event will be entitled to 36 months of continuation coverage. The period, however, will be measured from the date of the first qualifying event. As an example, John Smith terminates employment and enrolls in COBRA with husband and wife coverage for an 18-month term. In the tenth month, he dies. Mrs. Smith is now eligible to continue her coverage for a total of 36 months from the first COBRA event leaving her 26 months of remaining eligibility.
3. COBRA continuation will terminate on the date that the enrollee first becomes covered under any other group health plan as an employee or dependent unless that plan has a pre-existing condition clause. COBRA coverage can be continued **for the pre-existing condition only** until the normal COBRA end date or when the pre-existing condition clause ends, whichever comes first.
4. If the health plan being continued offers a choice among types of coverage, employee, spouse/partner, and dependents are each entitled to make their own decision as to these choices.
5. If the employee or spouse/partner declines coverage, the spouse/partner and/or dependents may elect it for themselves.
6. COBRA subscribers are permitted to add dependents to their existing coverage within 60 days of their acquiring those dependents (i.e., marriage, entering an eligible domestic partnership, birth, adoption, guardianship).
7. COBRA enrollees have the same rights to coverage at Open Enrollment as are available to active employees. This means that you or a dependent who elected to enroll under COBRA are able to enroll in any health plan and, if offered by your employer, the Employee Dental Plans or Employee Prescription Drug Plan coverage during the Program's Open Enrollment period regardless of whether you elected to enroll for the coverage when you first enrolled in COBRA. However, the addition of a benefit during the Open Enrollment does not extend the maximum COBRA coverage period. All COBRA enrollees receive Open Enrollment information mailed directly to the address on file with the Program.
8. In order to protect you and your family's rights, you should keep your employer and the Division of Pensions and Benefits informed of any changes in your address and the address(es) of your family members.

# Continuation of Health Benefits Under COBRA

State Health Benefits Program • School Employees' Health Benefits Program

## WHAT IS COBRA?

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 requires that most employers sponsoring group health plans offer employees and their eligible dependents — also known under COBRA as “qualified beneficiaries” — the opportunity to temporarily extend their group health coverage in certain instances where coverage under the plan would otherwise end. For State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) participants, COBRA is not a separate health program; it is a continuation of SHBP or SEHBP coverage under the provisions of the federal law.

## WHO IS ELIGIBLE FOR COBRA?

**Employees** enrolled in the SHBP or SEHBP may continue coverage under COBRA, in any plan that the employee is eligible for, if coverage ends because of a:

- Reduction in working hours;
- Leave of absence; or
- Termination of employment for reasons other than gross misconduct.

**Spouses, civil union partners, or eligible same-sex domestic partners\* of employees** enrolled in the SHBP or SEHBP may continue coverage under COBRA, in any plan that the employee is eligible for, if coverage ends because of the:

- Death of the employee;
- End of the employee's coverage due to a reduction in working hours, leave of absence, or termination of employment for reasons other than gross misconduct;

- Divorce or legal separation of the employee and spouse;
- Dissolution of a civil union or domestic partnership; or
- Election of Medicare as the employee's primary insurance carrier (requires dropping the group coverage carried as an active employee).

**Dependent children** under age 23 may continue coverage under COBRA if the following occurs:

- Death of the employee;
- End of the employee's coverage due to a reduction in working hours, leave of absence, or termination of employment for reasons other than gross misconduct; or
- Election of Medicare as the employee's primary insurance carrier (requires dropping the group coverage carried as an active employee).

**Note:** Each “qualified beneficiary” may independently elect COBRA coverage to continue in any or all of the coverage you had as an active employee or dependent (medical, prescription drug, dental, and/or vision). You and/or your dependents may change your medical and/or dental plan when you enroll in COBRA. You may also elect to cover the same dependents you had as an active employee, or you can delete dependents to reduce your level of coverage. However, you cannot increase the level of your coverage, except during the annual Open Enrollment period, unless a qualifying event occurs (birth, adoption, marriage, civil union, eligible domestic partnership) and you notify the Division of Pensions and Benefits' COBRA Administrator within 60 days of the qualifying event.

*\*For more information about health benefits for domestic partners, including eligibility requirements, see Fact Sheet #71, Benefits Under the Domestic Partnership Act. For more information about health benefits for civil union partners see Fact Sheet #75, Civil Unions.*

### HOW LONG WILL COBRA COVERAGE LAST?

The length of your COBRA coverage continuation depends on the nature of the COBRA qualifying event that entitled you to the coverage.

- For loss of coverage due to termination of employment, reduction of hours, or leave of absence, the employee and/or dependents are entitled to 18 months of COBRA coverage. Time on leave of absence just before enrollment in COBRA, unless under the federal and/or State Family Leave Act, counts toward the 18-month period and will be subtracted from the 18 months. Time a member spends on federal or State leave will not count as part of the COBRA eligibility period.
- If you receive a Social Security Administration disability determination for an illness or injury you had when you enrolled in COBRA or incurred within 60 days of enrollment, you and your covered dependents are entitled to an extra 11 months of coverage up to a maximum of 29 months of COBRA coverage. You must provide proof within 60 days of the disability determination from the Social Security Administration or within 60 days of COBRA enrollment.
- For loss of coverage due to the death of the employee, divorce or legal separation, dissolution of a civil union or domestic partnership, other dependent ineligibility, or Medicare entitlement, the continuation term for dependents is 36 months.

### HOW MUCH WILL I PAY FOR COVERAGE?

You are responsible for paying the cost of your coverage under COBRA which is the full group rate plus a 2 percent administration fee. The Division of Pensions and Benefits will bill you on a monthly basis.

### EMPLOYEE / QUALIFIED BENEFICIARY RESPONSIBILITIES UNDER COBRA

The law requires that employees and/or their dependents:

- Keep your employer and the Division of Pensions and Benefits informed of any changes to the address information of all possible “qualified beneficiaries.”
- Notify your employer that a divorce, legal separation, dissolution of a civil union or domestic partnership, or the death of the employee has occurred or that a dependent child has married, entered into a civil union or domestic partnership, moved out of the household, or reached age 23 — notification must be given within 60 days of the date the event occurred (If you do not inform your employer of the change in dependent status within the 60 day requirement, you may forfeit your dependent’s right to COBRA);
- File a *COBRA Application* within 60 days of the loss of coverage or the date of the *COBRA Notice* provided by your employer, whichever is later;
- Pay the required monthly premiums in a timely manner;
- Pay premiums, when billed, retroactive to the date of group coverage termination;
- Notify the Division of Pensions and Benefits’ COBRA Administrator, in writing, of any second qualifying event that results in an extension of the maximum coverage period (see How Long Will COBRA Coverage Last? at left);
- Notify the Division of Pensions and Benefits’ COBRA Administrator, in writing, of a Social Security Administration disability award within 60 days of receipt of the award, or within 60 days of COBRA enrollment (this will extend the maximum COBRA coverage period from 18 months to 29 months — see How Long Will COBRA Coverage Last? at left); and
- Provide notice of any determination that a “qualified beneficiary” who had received a dis-

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ability extension is no longer disabled. This notice must be sent to the Division of Pensions and Benefits' COBRA Administrator within 30 days of determination by the Social Security Administration. Failure to provide timely notification may result in adjustments to any claims paid erroneously.

### **EMPLOYER RESPONSIBILITIES UNDER COBRA**

The COBRA law requires employers to:

- Notify employees and their dependents of the COBRA provisions within 90 days of when the employee and their dependents are first enrolled in the SHBP or SEHBP by mailing a notification letter to their home;
- Notify employees, their spouse or partner, and their children of the right to purchase continued coverage within 14 days of receiving notice that there has been a COBRA qualifying event that causes a loss of coverage;
- Send the *COBRA Notification Letter* and a *COBRA Application* within 14 days of receiving notice that a COBRA qualifying event has occurred. The notice outlines the right to purchase continued health coverage, gives the date coverage will end, and the period of time over which coverage may be extended;
- Notify the Division of Pensions and Benefits within *30 days* of the date of an employee/dependent's qualifying event or loss of coverage. (An employee's loss of coverage is reported by completing a *Transmittal of Deletions Sheet*. A dependent's loss of coverage is reported through the Division's receipt of a completed health benefit application terminating the dependent's coverage.).
- Maintain records documenting their compliance with the COBRA law.

### **ENROLLING FOR COBRA COVERAGE**

**The employee and/or the dependent seeking coverage is responsible for submitting a properly completed *COBRA Application* to the Health**

Benefits Bureau of the Division of Pensions and Benefits. This application must be filed within 60 days of the loss of coverage or of the date of employer notification, whichever is later. Failure to submit the application within the time frame allowed by law is considered a decision not to enroll.

- In considering whether to elect continuation of coverage under COBRA, you should take into account that you cannot enroll at a later date and that a failure to continue your group health coverage may affect your future rights under federal law (see *Failure to Elect COBRA Coverage*, below).
- If you are retiring, you may be eligible for lifetime health, prescription drug, and dental coverage through the Retired Group of the SHBP or SEHBP. Consult your employer or the Division of Pensions and Benefits prior to enrolling for these benefits under COBRA.

### **FAILURE TO ELECT COBRA COVERAGE**

In considering whether to elect continuation of coverage under COBRA, a "qualified beneficiary" should take into account that a failure to continue group health coverage will affect future rights under federal law.

- First, you can lose the right to avoid having pre-existing condition exclusions applied to you by other group health plans if you have more than a 63-day gap in health coverage. The election of continuation of coverage under COBRA may help you to bridge such a gap (see information about pre-existing conditions under *Termination of COBRA Coverage* on page 4).
- Second, you will lose the guaranteed right to purchase individual health insurance policies that do not impose pre-existing condition exclusions if you do not continue coverage under COBRA for the maximum time available to you.
- Finally, you should take into account that you have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's/partner's employ-

er) within 30 days of the date your group coverage ends. You will also have the same special enrollment right at the end of the COBRA coverage period provided the continuation of coverage under COBRA is for the maximum time available to you.

### AFTER YOU HAVE ENROLLED IN COBRA

You should be aware of the following information after you have enrolled in COBRA:

- Bills will be sent from the Division of Pensions and Benefits/Health Benefits Bureau. Any billing questions must be referred to the:

**COBRA Administrator**  
**Division of Pensions and Benefits**  
**Health Benefits Bureau**  
**PO Box 299**  
**Trenton, NJ 08625-0299**

or you may call the Division's **Office of Client Services at (609) 292-7524**.

- You will be billed monthly. Accounts delinquent over 45 days will be closed and insurance coverage terminated. If you do not receive a monthly bill or misplace it, contact the Office of Client Services. **It is your responsibility to make payment on a timely basis.**
- Once you are enrolled in COBRA, claims are handled just like active employee claims (i.e. using the same claim forms and procedures). However, you must indicate your status as a COBRA participant on all claim forms (this will help prevent claim processing issues. All COBRA premiums must also be paid through the date of the claim in order for the claim to be processed). **Questions about claims should be directed to the insurance carriers.** The single exception is that vision plan claims are sent directly to the COBRA Administrator at the address shown above.
- Plan administration under COBRA follows the same rules as for active employees. However, all activity is processed through the COBRA Administrator rather than the former employer.

COBRA subscribers are permitted to change medical and/or dental plans and/or add coverage during the annual Open Enrollment period (in the fall) through the COBRA Administrator. All COBRA enrollees will receive Open Enrollment information mailed directly to their address on file with the SHBP or SEHBP.

- All changes in coverage due to a "qualifying event" (for example: the birth of a child, a marriage, civil union, divorce, a death, etc.) must be made in writing to the COBRA Administrator at the address previously provided.

Upon receipt of your letter, you will be sent a COBRA change form. To increase coverage, you have 60 days from the date of the qualifying event to make the change. To change plans, because you have moved out of your plan's service area, you have 30 days to make the change. These changes must be requested within the specified time frames, otherwise they may only be made during the Open Enrollment period. You may decrease your coverage (delete a dependent) at any time.

### TERMINATION OF COBRA COVERAGE

Your COBRA benefits under the SHBP or SEHBP will terminate for any of the following reasons:

- Your employer (or former employer) no longer provides SHBP or SEHBP coverage to any of its employees. In this case, your employer will give you the opportunity to continue COBRA coverage through their new insurance plan for the balance of your COBRA continuation period;
- You become covered under another group plan as either an employee or dependent after you elect COBRA coverage (unless that plan has a pre-existing condition clause). If, after enrolling in COBRA you obtain new coverage which has a pre-existing condition clause, you may continue your COBRA enrollment at full cost for coverage of the condition excluded by the pre-existing condition clause. To be eligible for the continued COBRA coverage you will have to provide information about the pre-existing con-

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dition clause to the COBRA administrator and **only the pre-existing condition will be covered.** You will be allowed to continue your COBRA coverage to its normal end date or when the pre-existing condition clause ends, whichever comes first;

- You become eligible for Medicare after you elect COBRA coverage (affects medical insurance coverage only, does not affect dental, prescription drug, or vision care coverage);
- Your fail to pay your premiums; or
- Your eligible coverage continuation period ends.

### CONVERSION OF COBRA COVERAGE

The COBRA law provides that you must be allowed to enroll in an individual, non-group policy of the same health plan provided under the SHBP or SEHBP at the end of your COBRA enrollment period. You must complete your full coverage continuation period. Contact the health plan for details.

**Note:** There are no conversion provisions for prescription drug or dental coverage.

### MORE INFORMATION

If you need additional information about COBRA, see your Human Resources Representative or

Benefits Administrator, or contact the Division of Pensions and Benefits Office of Client Services at (609) 292-7524, or send an e-mail to:

*pensions.nj@treas.state.nj.us*

### A NOTE ABOUT COVERAGE FOR CHILDREN AGE 23 UNTIL AGE 31

The Division of Pensions and Benefits has specific guidelines about providing health coverage to children past the age of 23 until age 31 due to the enactment of Chapter 375, P.L. 2005. A child who attains age 23 and needs continued coverage can select either COBRA coverage or Chapter 375 coverage for medical benefits. Rates for COBRA coverage and Chapter 375 coverage can change annually, be sure to compare the rates prior to enrolling in either program. To see a cost comparison, go to the Division of Pensions and Benefits Web site at:

*www.state.nj.us/treasury/pensions/cobrav375.htm*

Chapter 375 does not cover vision or dental benefits. If your child wishes to obtain those coverages, he or she must apply for them under COBRA.

The eligibility requirements for Chapter 375 are outlined in Fact Sheet #74, *Health Benefit Coverage of Children Until Age 31 Under Chapter 375*, which is available on our Web site.

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This fact sheet has been produced and distributed by:

**New Jersey Division of Pensions and Benefits • PO Box 295 • Trenton, New Jersey 08625-0295  
(609) 292-7524 • TDD for the hearing impaired (609) 292-7718**

**URL: <http://www.state.nj.us/treasury/pensions> • E-mail: [pensions.nj@treas.state.nj.us](mailto:pensions.nj@treas.state.nj.us)**

This fact sheet is a summary and not intended to provide total information.

Although every attempt at accuracy is made, it cannot be guaranteed.

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## **Notice to Health Benefits Program Participants About Compliance with Federal Health Insurance Requirements**

This notice is being provided to inform you about State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) conformance with federal health insurance regulations.

The Health Insurance Portability and Accountability Act (HIPAA), the Mental Health Parity Act, and the Newborns' and Mothers' Health Protection Act, federal laws enacted in 1996, contain a number of provisions that affect the SHBP and SEHBP. HIPAA required all group health plans to implement the following provisions that are contained in the three federal laws:

- #1. Limit the use of pre-existing condition restrictions to a maximum of twelve months;
- #2 Offer a special enrollment period to employees and dependents who do not enroll in the plan when initially eligible because they have other coverage, and who subsequently lose that coverage;
- #3 Eliminate discrimination against participants and beneficiaries based on health status;
- #4 Provide a minimum level of hospital coverage for newborns and mothers, generally 48 hours for a vaginal delivery and 96 hours for a cesarean delivery; and
- #5 Provide parity in mental health benefits, that is, any dollar limitations applied to mental health treatment cannot be lower than those on medical and surgical benefits.

All SHBP and SEHBP plans have met or exceeded HIPAA requirements #1 through #4 above. SHBP and SEHBP HMOs also have complied with requirement #5 above. The State Health Benefits Commission and School Employees' Health Benefits Commission filed exemptions from HIPAA compliance on mental health parity (requirement #5) for 2010 for NJ DIRECT, as a self-insured, non-federal governmental plan is permitted to do. As a result, maximum annual and lifetime dollar limits apply to mental health benefits under NJ DIRECT, except for *biologically-based* mental illness. Maximum annual and lifetime dollar limits for mental health benefits are outlined for NJ DIRECT in the SHBP/SEHBP *Summary Program Description*, the *Plan Comparison Summary*, and the *NJ DIRECT Member Handbook*.

## **NOTICE OF PRIVACY PRACTICES TO ENROLLEES IN THE STATE HEALTH BENEFITS PROGRAM AND SCHOOL EMPLOYEES' HEALTH BENEFITS PROGRAM**

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE  
USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.  
PLEASE REVIEW IT CAREFULLY.**

**EFFECTIVE DATE: APRIL 14, 2003.**

### **Protected Health Information**

The State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) are required by the federal Health Insurance Portability and Accountability Act (HIPAA) and State laws to maintain the privacy of any information that is created or maintained by the Programs that relates to your past, present, or future physical or mental health. This Protected Health Information (PHI) includes information communicated or maintained in any form. Examples of PHI are your name, address, Social Security number, birth date, telephone number, fax number, dates of health care service, diagnosis codes, and procedure codes. PHI is collected by the Programs through various sources, such as enrollment forms, employers, health care providers, federal and State agencies, or third-party vendors.

The Programs are required by law to abide by the terms of this Notice. The Programs reserve the right to change the terms of this Notice. If the Programs make material changes to this Notice, a revised Notice will be sent.

### **Uses and Disclosures of PHI**

The Programs are permitted to use and to disclose PHI in order for our members to obtain payment for health care services and to conduct the administrative activities needed to run the Programs without specific member authorization. Under limited circumstances, we may be able to provide PHI for the health care operations of providers and health plans. Specific examples of the ways in which PHI may be used and disclosed are provided below. This list is illustrative only and not every use and disclosure in a category is listed.

- The Programs may disclose PHI to a doctor or a hospital to assist them in providing a member with treatment.
- The Programs may use and disclose member PHI so that our Business Associates may pay claims from doctors, hospitals, and other providers.
- The Programs receive PHI from employers, including the member's name, address, Social Security number, and birth date. This enrollment information is provided to our Business Associates so that they may provide coverage for health care benefits to eligible members.
- The Programs and/or our Business Associates may use and disclose PHI to investigate a complaint or process an appeal by a member.
- The Programs may provide PHI to a provider, a health care facility, or a health plan that is not our Business Associate that contacts us with questions regarding the member's health care coverage.
- The Programs may use PHI to bill the member for the appropriate premiums and reconcile billings we receive from our Business Associates.
- The Programs may use and disclose PHI for fraud and abuse detection.
- The Programs may allow use of PHI by our Business Associates to identify and contact our members for activities relating to improving health or reducing health care costs, such as information about disease management programs or about health-

related benefits and services or about treatment alternatives that may be of interest to them.

- In the event that a member is involved in a lawsuit or other judicial proceeding, the Programs may use and disclose PHI in response to a court or administrative order as provided by law.
- The Programs may use or disclose PHI to help evaluate the performance of our health plans. Any such disclosure would include restrictions for any other use of the information other than for the intended purpose.
- The Programs may use PHI in order to conduct an analysis of our claims data. This information may be shared with internal departments such as auditing or it may be shared with our Business Associates, such as our actuaries.

Except as described above, unless a member specifically authorizes us to do so, the Programs will provide access to PHI only to the member, the member's authorized representative, and those organizations who need the information to aid the Programs in the conduct of its business (our "Business Associates"). An authorization form may be obtained over the Internet at: [www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions) or by sending an e-mail to: [hipaaform@treas.state.nj.us](mailto:hipaaform@treas.state.nj.us). A member may revoke an authorization at any time.

When using or disclosing PHI, the Programs will make every reasonable effort to limit the use or disclosure of that information to the minimum extent necessary to accomplish the intended purpose. The Programs maintain physical, technical and procedural safeguards that comply with federal law regarding PHI.

### **Member Rights**

Members of the Programs have the following rights regarding their PHI:

**Right to Inspect and Copy:** With limited exceptions, members have the right to inspect

and/or obtain a copy of their PHI that the Programs maintain in a designated record set which consists of all documentation relating to member enrollment and the Programs' use of this PHI for claims resolution. The member must make a request in writing to obtain access to their PHI. The member may use the contact information found at the end of this Notice to obtain a form to request access.

**Right to Amend:** Members have the right to request that the Programs amend the PHI that we have created and that is maintained in our designated record set.

We cannot amend demographic information, treatment records or any other information created by others. If members would like to amend any of their demographic information, please contact your personnel office. To amend treatment records, a member must contact the treating physician, facility, or other provider that created and/or maintains these records.

The Programs may deny the member's request if: 1) we did not create the information requested on the amendment; 2) the information is not part of the designated record set maintained by the Programs; 3) the member does not have access rights to the information; or 4) we believe the information is accurate and complete. If we deny the member's request, we will provide a written explanation for the denial and the member's rights regarding the denial.

**Right to an Accounting of Disclosures:** Members have the right to receive an accounting of the instances in which the Programs or our Business Associates have disclosed member PHI. The accounting will review disclosures made over the past six years. We will provide the member with the date on which we made a disclosure, the name of the person or entity to whom we disclosed the PHI, a description of the information we disclosed, the reason for the disclosure, and certain other information. Certain disclosures are exempted from this requirement (e.g., those made for treatment, payment or health benefits operation purposes or made in accordance with an authorization) and will not appear on the accounting.

**Right to Request Restrictions:** The member has the right to request that the Programs place restrictions on the use or disclosure of their PHI for treatment, payment, or health care operations purposes. The Programs are not required to agree to any restrictions and in some cases will be prohibited from agreeing to them. However, if we do agree to a restriction, our agreement will always be in writing and signed by the Privacy Officer. The member request for restrictions must be in writing. A form can be obtained by using the contact information found at the end of this Notice.

**Right to Request Confidential Communications:** The member has the right to request that the Programs communicate with them in confidence about their PHI by using alternative means or an alternative location if the disclosure of all or part of that information to another person could endanger them. We will accommodate such a request if it is reasonable, if the request specifies the alternative means or locations, and if it continues to permit the Programs to collect premiums and pay claims under the health plan.

To request changes to confidential communications, the member must make their request in writing, and must clearly state that the information could endanger them if it is not communicated in confidence as they requested.

## **Questions and Complaints**

If you have questions or concerns, please contact the Programs using the information listed at the end of this Notice.

If members think the Programs may have violated their privacy rights, or they disagree with a decision made about access to their PHI, in response to a request made to amend or restrict the use or disclosure of their information, or to have the Programs communicate with them in confidence by alternative means or at an alternative location, they must submit their complaint in writing. To obtain a form for submitting a complaint, use the contact information found at the end of this Notice.

Members also may submit a written complaint to the U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The Programs support member rights to protect the privacy of PHI. It is your right to file a complaint with the Programs or with the U.S. Department of Health and Human Services.

**Contact Office:** HIPAA Privacy Officer

**Address:** State of New Jersey  
Department of the Treasury  
Division of Pensions and Benefits  
PO Box 295  
Trenton, NJ 08625-0295

**Fax:** (609) 341-3410

**E-mail:** [hipaaform@treas.state.nj.us](mailto:hipaaform@treas.state.nj.us)

## CERTIFICATE OF GROUP HEALTH PLAN COVERAGE

1. Date of this certificate: \_\_\_\_\_
2. Name of participant: \_\_\_\_\_
3. Name of group health plan: \_\_\_\_\_
4. Identification number of participant: \_\_\_\_\_
5. Name of any dependents to whom this certificate applies: \_\_\_\_\_  
\_\_\_\_\_
6. Name, address, and telephone number of issuer responsible for providing this certificate:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. For further information, call: \_\_\_\_\_
8. If the individual(s) identified in line 2 and line 5 has at least 18 months of creditable coverage (disregarding periods of coverage before a 63-day break), check here \_\_\_\_\_ and skip lines 9 and 10.
9. Date waiting period or affiliation period (if any) began: \_\_\_\_\_
10. Date coverage began: \_\_\_\_\_
11. Date coverage ended: \_\_\_\_\_  
(or check if coverage is continuing as of the date of this certificate \_\_\_\_\_ ).

**NOTE:** *Separate certificates will be furnished if information is not identical for the participant and each covered dependent.*

### Statement of HIPAA Portability Rights

**IMPORTANT - KEEP THIS CERTIFICATE.** This certificate is being provided to you in compliance with the requirements of the Federal Health Insurance Portability and Accounting Act (HIPAA) of 1996. It provides evidence of your prior health coverage in the New Jersey State Health Benefits Program. You may need to furnish this certificate to your new insurer if you become eligible under a group health plan that excludes coverage for certain medical conditions that you have before you enroll. This certificate may need to be provided if medical advice, diagnosis, care, or treatment was recommended or received for the condition within the 6-month period prior to your enrollment in the new plan. If you become covered under another group health plan, check with the plan administrator to see if you need to provide this certificate. You may also need this certificate to buy, for yourself or your family, an insurance policy that does not exclude coverage for medical conditions that are present before you enroll.

**Preexisting Condition Exclusions** — Some group health plans restrict coverage for medical conditions present before an individual's enrollment. These restrictions are known as "preexisting condition exclusions." A preexisting condition exclusion can apply only to conditions for which medical advice, diagnosis, care, or treatment was recommended or received within the 6 months before your "enrollment date." Your enrollment date is your first day of coverage under the plan, or — if there is a waiting period — the first day of your waiting period (typically, your first day of work). In addition, a preexisting condition exclusion cannot last for more than 12 months after your enrollment date (18 months if you are a late enrollee). Finally, a preexisting condition exclusion cannot apply to pregnancy and cannot apply to a child who is enrolled in health coverage within 30 days after birth, adoption, or placement for adoption.

*(Continued on back)*

**Statement of HIPAA Portability Rights** (Continued)

If a plan imposes a preexisting condition exclusion, the length of the exclusion must be reduced by the amount of your prior creditable coverage. Most health coverage is creditable coverage, including: group health plan coverage, COBRA continuation coverage, coverage under an individual health policy, Medicare, Medicaid, State Children's Health Insurance Program (SCHIP), and coverage through high-risk pools and the Peace Corps. Not all forms of creditable coverage are required to provide certificates like this one. If you do not receive a certificate for past coverage, talk to your new plan administrator.

You can add up any creditable coverage you have, including the coverage shown on this certificate. However, if at any time you went for 63 days or more without any coverage (called a break in coverage) a plan may not have to count the coverage you had before the break.

- Therefore, once your coverage ends, you should try to obtain alternative coverage as soon as possible to avoid a 63-day break. You may use this certificate as evidence of your creditable coverage to reduce the length of any preexisting condition exclusion if you enroll in another plan.

**Right to Get Special Enrollment in Another Plan** — Under HIPAA, if you lose your group health plan coverage, you may be able to get into another group health plan for which you are eligible (such as a spouse's plan), even if the plan generally does not accept late enrollees, if you request enrollment within 30 days. (Additional special enrollment rights are triggered by marriage, birth, adoption, and placement for adoption.)

- Therefore, once your coverage ends, if you are eligible for coverage in another plan (such as a spouse's plan), you should request special enrollment as soon as possible.

**Prohibition Against Discrimination Based on a Health Factor** — Under HIPAA, a group health plan may not keep you (or your dependents) out of the plan based on anything related to your health. Also, a group health plan may not charge you (or your dependents) more for coverage, based on health, than the amount charged a similarly situated individual.

**Right to Individual Health Coverage** — Under HIPAA, if you are an "eligible individual," you have a right to buy certain individual health policies (or in some states, to buy coverage through a high-risk pool) without a preexisting condition exclusion. To be an eligible individual, you must meet the following requirements:

- You have had coverage for at least 18 months without a break in coverage of 63 days or more;
- Your most recent coverage was under a group health plan (which can be shown by this certificate);
- Your group coverage was not terminated because of fraud or nonpayment of premiums;
- You are not eligible for COBRA continuation coverage or you have exhausted your COBRA benefits (or continuation coverage under a similar state provision); and
- You are not eligible for another group health plan, Medicare, or Medicaid, and do not have any other health insurance coverage.

The right to buy individual coverage is the same whether you are laid off, fired, or quit your job.

- Therefore, if you are interested in obtaining individual coverage and you meet the other criteria to be an eligible individual, you should apply for this coverage as soon as possible to avoid losing your eligible individual status due to a 63-day break.

**State Flexibility** — This certificate describes minimum HIPAA protections under federal law. States may require insurers and HMOs to provide additional protections to individuals in that state.

**For More Information** — If you have questions about your HIPAA rights, you may contact your state insurance department or the U.S. Department of Labor, Employee Benefits Security Administration (EBSA) toll-free at 1-866-444-3272 (for free HIPAA publications ask for publications concerning changes in health care laws). You may also contact the federal Centers for Medicare and Medicaid Services publication hotline at 1-800-633-4227 (ask for *Protecting Your Health Insurance Coverage*). These publications and other useful information are also available on the Internet at: [www.dol.gov/ebsa](http://www.dol.gov/ebsa), the DOL's interactive Web pages - Health E-laws, or at: [www.cms.hhs.gov/hipaa1](http://www.cms.hhs.gov/hipaa1).

## INSTRUCTIONS FOR COMPLETING THE HIPAA CERTIFICATE OF COVERAGE

The completion of a *Certificate of Coverage* is a requirement of the federal Health Insurance Portability and Accountability Act (HIPAA). HIPAA requires that group health plans provide a *Certificate of Coverage* automatically to any covered employee or dependent who loses group coverage after June 1, 1997. HIPAA also requires that individuals covered by a group plan who lost coverage between June 1, 1996 and June 1, 1997 be provided a *Certificate of Coverage* upon request of that individual or his/her designated agent (e.g., new group insurance provider). **In the SHBP, the participating local employer or State payroll office has the responsibility for providing required *Certificates of Coverage*.**

- ITEM 1:** Insert the date you are completing the form.
- ITEM 2:** Insert the full name of the covered participant requesting the *Certificate of Coverage*.
- ITEM 3:** Insert the name of the SHBP health plan that covered the participant.
- ITEM 4:** Insert the participant's SHBP health coverage identification number.
- ITEM 5:** Insert the full name(s) of any dependent(s) covered under the participant's health coverage at the time of termination of coverage. Indicate any dependent(s) who did not have coverage for the same time period as the participant. For example, if the participant was covered for over 18 months, but the dependent(s) was only covered for eight months, indicate that on the form.
- ITEM 6:** In most cases, the name, address, and phone number of the employer issuing the certificate will be inserted here. If the *Certificate of Coverage* is being issued subsequent to the termination of coverage under COBRA, the SHBP's COBRA Administrator will complete this form and insert its identifying information here.
- ITEM 7:** Insert the same telephone number indicated in Item 6.
- ITEM 8:** Show the period of time for which the participant is entitled to credit under his/her new plan's pre-existing condition exclusion provisions (if any). This includes the period of time the participant was covered under the SHBP plan, either as an active employee or on any other basis, including COBRA. If the participant went 63 or more consecutive days without health coverage, any coverage that the participant had before the significant break in coverage is ignored. A waiting period before an employee is eligible for plan coverage does not count either as part of a significant break in coverage or in an individual's total of creditable coverage. You must also show the period of coverage for dependent(s) if different from the participant. Do this in Item 4. The longest pre-existing condition period under HIPAA is 18 months, therefore if the participant was covered by a SHBP plan for at least 18 months, that is all that needs to be reported here. If the coverage period was shorter than 18 months, the following must be reported in Items 9 through 11:
- the first day of the waiting period completed by the participant, if any (this is the period between the date of hire and the start of coverage);
  - the first day of the participant's creditable coverage;
  - the last day of the participant's creditable coverage.
- ITEM 9:** Insert the day the waiting period (if any) began. This would be the first day at work for a new employee whose coverage does not start immediately.
- ITEM 10:** Insert the date coverage began.
- ITEM 11:** Insert the date coverage ended. If you have confirmation that coverage under COBRA or the SHBP Retired Group is continuing, then check the coverage continuing block. Do not check the coverage continuing block if you are not certain that a COBRA or Retired Group application has been initiated and the enrollment processed.

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**A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS**


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## HEALTH BENEFIT COVERAGE OF CHILDREN UNTIL AGE 31 UNDER CHAPTER 375, P.L. 2005

State Health Benefits Program • School Employees' Health Benefits Program

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### DEPENDENT CHILDREN

Under the State Health Benefits Program (SHBP) or the School Employees' Health Benefits Program (SEHBP) an eligible "dependent child" is defined as an unmarried child under age 23 who lives in a regular parent-child relationship, or who is away at school, or a child of a divorce living at home provided that he or she is dependent upon the covered parent for support and maintenance or if the covered parent is legally required to support the child. Health benefit coverage for dependent children usually ends as of December 31 of the year in which the child turns age 23.

### CHAPTER 375 CHILDREN

Under the provisions of Chapter 375, P.L. 2005, as amended by Chapter 38, P.L. 2008, certain over age children may be eligible for coverage until age 31.

This includes a child by blood or law who:

- is under the age of 31;
- unmarried;
- has no dependent(s) of his or her own;
- is a resident of New Jersey or is a full-time student at an accredited public or private institution of higher education; and
- is not provided coverage as a subscriber, insured, enrollee, or covered person under a group or individual health benefits plan, church plan, or entitled to benefits under Medicare.

### ENROLLING FOR CHAPTER 375 COVERAGE

A covered employee (from a SHBP or SEHBP participating employer) or retiree may enroll an over age child who is Chapter 375 eligible until the child's 30th birthday at the following times:

- within 30 days prior to December 31 of the year the dependent reaches age 23 with coverage effective the following January 1;
- if, within 30 days of coverage loss, the covered employee provides proof of loss of other group coverage (HIPAA) for the Chapter 375 eligible

over age child with coverage effective the date that the prior coverage was terminated; or

- during the month of October of each year if the over age child meets the eligibility requirements of Chapter 375 as outlined above with coverage effective the following January 1.

### REQUIRED DOCUMENTATION

**A completed Chapter 375 Application for Coverage**, a photocopy of the over age child's birth certificate, **and** a photocopy of the top half of the front page of the covered parent's most recently filed federal tax return (*Form 1040*) that includes the child **or** if the over age child is not listed on the covered parent's tax return, a copy of the top half of the child's most recently filed tax return (you may black out all financial information and all but the last four digits of any Social Security numbers).

If applicable, documentation of the proof of loss of other coverage (HIPAA) is also required when enrolling for this extended coverage. If the over age child is adopted, a step child (who was dependent on the employee/retiree for support and maintenance), or a legal ward, supporting documentation is required, if not already on file. See the Division of Pensions and Benefits Web site at: [www.state.nj.us/treasury/pensions/shbp.htm](http://www.state.nj.us/treasury/pensions/shbp.htm) for a description of required documentation. In addition, transcripts are required for full-time students attending schools outside of the State of New Jersey.

**NOTE: The application and required documentation must be submitted to the Division of Pensions and Benefits on or before the child's 30th birthday.**

### PLAN SELECTION

Under Chapter 375, an over age child does not have any choice in the selection of benefits but is enrolled for coverage in exactly the same plan or plans (medical and/or prescription drug) that the covered parent has selected. There is no provision for eligibility for dental or vision benefits (see "A Note About COBRA Coverage" on page 2).

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**A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS**

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**COVERAGE COSTS**

When Chapter 375 coverage is elected the covered parent will be billed directly for the cost; therefore the covered parent is held responsible for the payment of the Chapter 375 coverage.

*Chapter 375 Rate Charts* showing the premium amounts for all health benefit plans are available from your employer, by contacting the Division of Pensions and Benefits, or over the Internet at:

[www.state.nj.us/treasury/pensions/shbp.htm](http://www.state.nj.us/treasury/pensions/shbp.htm)

Enrollment of over age children for coverage under Chapter 375 is voluntary. The provisions of Chapter 375 do not require an employer to pay all or any part of the cost of coverage for any election of this coverage.

**WHEN COVERAGE ENDS**

Coverage for an enrolled over age child will end when the child no longer meets any one of the eligibility requirements listed above, or when the covered parent's coverage ends (for example: termination of employment, divorce, or death of the covered parent). Coverage may also be terminated in the event of non-payment of the required premiums.

Chapter 375 coverage ends on the first of the month following the event that makes the child ineligible or up until the paid through date in the case of non-payment.

There is no provision for the continuation of group coverage under COBRA for a child due to the loss of Chapter 375 coverage. Nor is there any provision for conversion to non-group coverage.

**A NOTE ABOUT COBRA COVERAGE**

The year in which your dependent child turns age 23, you will receive a COBRA notification letter prior

to the termination of the dependent's coverage, which is required by federal law. The notice outlines the right to purchase continued health coverage, gives the date coverage will end, and the period of time over which coverage may be extended (usually 36 months). Rates for Chapter 375 coverage and COBRA coverage can change annually, be sure to compare the rates prior to enrolling in either program. To see a cost comparison, go to the Division of Pensions and Benefits Web site at:

[www.state.nj.us/treasury/pensions/cobrav375.htm](http://www.state.nj.us/treasury/pensions/cobrav375.htm)

Chapter 375 does not cover vision and dental benefits. If your child wishes to obtain those coverages he or she must apply for them under COBRA.

**ADDITIONAL INFORMATION**

For a *Chapter 375 Rate Chart*, a *Chapter 375 Application for Coverage*, or if you have additional questions about Chapter 375 eligibility or coverage, see your employer's Benefits Administrator, or the Chapter 375 information at the Division of Pensions and Benefits Web site at:

[www.state.nj.us/treasury/pensions/shbp.htm](http://www.state.nj.us/treasury/pensions/shbp.htm)

If you need information concerning COBRA coverage, see Fact Sheet #30, *Continuation of Insurance Under COBRA*, available from your employer or the Web site listed above.

You may also contact the Division of Pensions and Benefits' Office of Client Services at (609) 292-7524, or e-mail the Division at:

[pensions.nj@treas.state.nj.us](mailto:pensions.nj@treas.state.nj.us)

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This fact sheet is a summary and not intended to provide total information.

Although every attempt at accuracy is made, it cannot be guaranteed.