



# Attention Employers with 2 to 19 Workers: New Pennsylvania “Mini-COBRA” Law Now in Effect

## Client Advisories

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Federal law known as COBRA requires employers with 20 or more employees to allow employees to continue participation in a company health plan after that coverage would normally end – for example, upon termination of employment. Effective July 10, 2009, Pennsylvania law requires smaller employers’ health insurance plans to provide a similar benefit for up to nine months.

The new Pennsylvania law affects employers with between two and 19 employees who maintain hospital, surgical, and major medical insurance plans for employees. If an employee covered by the company plan experiences a “qualifying event,” the employee, his or her spouse, and dependent children each may elect to continue health insurance coverage that was in effect prior to the event. A qualifying event is a termination of employment, reduction in hours, death, divorce, legal separation, or Medicare entitlement of the employee; a child’s ceasing to be a dependent of the employee; or the employer’s Chapter 11 bankruptcy, resulting in lost coverage under the company plan. The individual must have been covered for three continuous months to be eligible for the mini-COBRA continuation.

An eligible individual may elect to continue coverage for up to nine months, but coverage ends earlier if the individual becomes eligible for Medicare or group hospital, surgical or major medical coverage, or fails to pay premiums or provide certain required information to the employer. In contrast, federal continuation coverage lasts for up to 18 months for most qualifying events and up to 36 months for others.

Employers are required to notify the plan administrator, the covered employee and the insurer within 30 days of any qualifying event and the insurer within 14 days of an individual’s election of coverage. The notice to the employee must include an explanation of the employee’s rights under the law. It is not clear how the employer would be made aware of qualifying events other than termination of employment or reduction in hours, but some communication to employees other than the statutorily mandated notice after a qualifying event might be advisable. The employee has 30 days to elect continuation coverage and is required to pay all premiums and

administrative costs (in total not to exceed 105% of the monthly premium). Notably, for involuntarily terminated employees, these costs may be reduced by federal subsidy rules under the American Recovery and Reinvestment Act of 2009 (ARRA) (see our Advisory dated March 23, 2009). The subsidy rules are set to expire for terminations after 2009.

See the Pennsylvania Insurance Department's website at [http://www.ins.state.pa.us/ins/lib/ins/whats\\_new/employee\\_model\\_notice\\_final070909.doc](http://www.ins.state.pa.us/ins/lib/ins/whats_new/employee_model_notice_final070909.doc) for a State-prepared model notice you may use to notify employees of their rights under the new law. A model notice for insurers to use in notifying policyholders is also posted at the site.

In addition to Pennsylvania, New Jersey and most other states have "mini-COBRA" laws in effect.

Archer can assist you in complying with your responsibilities under both COBRA and mini-COBRA rules and ensuring the availability of this benefit to your employees.

For more information, please contact Nancy Wasch at (215) 246-3106, [nwasch@archerlaw.com](mailto:nwasch@archerlaw.com) or L.Gerald Rigby at (215) 279-9684, [grigby@archerlaw.com](mailto:grigby@archerlaw.com).

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## Related People



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