



New York Amends the 36-Month State Continuation Provisions

January 2010

*ON NOVEMBER 19, 2009 GOVERNOR PATERSON SIGNED LEGISLATION TO EXPAND THE 36-MONTH STATE HEALTH CARE CONTINUATION RIGHTS TO INDIVIDUALS WHO MAY HAVE LOST OR WHO COULD LOSE BENEFITS PRIOR TO THEIR GROUP HEALTH PLAN RENEWAL DATE. THIS **INSIGHTS** SUMMARIZES THE NEW PROVISIONS.*

THE ORIGINAL PROVISIONS

Employers subject to New York State “mini”-COBRA (small employers with 2 – 19 employees) and employers with fully insured plans subject to Federal COBRA, must provide up to 36 months of continuation health coverage to individuals who lose coverage as a result of job loss, reduction in hours or loss of eligibility. The law applies to New York health insurance contracts issued, renewed, modified or amended on or after July 1, 2009.

Individuals who exhausted their original 18 months of continuation coverage after the law was enacted but prior to their health plan’s renewal, would have been ineligible for the 18-month extension.

THE NEW PROVISIONS

The law now applies to New York policies and contracts (insured plans) as of **November 1, 2009**, regardless if the renewal is effective after this date. For example, a plan with a renewal date of May 1 must now extend 36 months of continuation coverage to anyone who is currently on COBRA or who experiences a qualifying event on or after November 1, 2009. The original compliance date would have been May 1, 2010.

Individuals who exhausted their original 18 months of Federal COBRA or state continuation coverage between **July 1, 2009 and October 31, 2009** and prior to the plan renewal will be eligible for a special enrollment period, the requirements of such are as follows:

- ◆ Eligible individuals can be covered for an additional 18 months of health coverage,
- ◆ The special enrollment period runs for 60 days following the receipt of a notice from the insurer

that provides details about the individual’s rights, however, for those individuals who do not receive a notice, the special enrollment period will not be extended more than 6 months from the date of enactment,

- ◆ Coverage will become effective on a **prospective basis** and begins not more than 30 days from the date of election and payment of the first premium,
- ◆ Any gap in coverage from the expiration of the original 18-month period of coverage until the reinstatement of coverage must be disregarded in determining pre-existing condition limitations, and
- ◆ An insurer must make reasonable efforts to provide written notice of the special enrollment period to all group policy or contract holders and former employees and members entitled to the special enrollment by December 19, 2009.

More information can be found on the New York State Insurance Department website at:
http://www.ins.state.ny.us/cobra/cobra_ext_36.htm#sum.

ADDITIONAL INFORMATION

For specific questions concerning information contained in this **Insights**, please contact your Chernoff Diamond consultant.

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