



The Local Choice Health Benefits Program

April 2009

Dear TLC Employer:

On February 17, 2009 President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA or “Stimulus Act”). This legislation provides for premium reductions for health benefits under the Consolidated Omnibus Budget Reconciliation Act (COBRA). While COBRA generally does not apply to groups with fewer than 20 employees, on April 8, 2009, the Virginia General Assembly passed a bill proposed by Governor Kaine that creates a continuation opportunity for individuals enrolled in group coverage with small employers that are not subject to COBRA.

The Local Choice Health Benefits Program (TLC) employers with two or more employees may offer continuation coverage to any covered employee who has been involuntarily terminated between September 1, 2008 and December 31, 2009. If these terminated employees qualify for assistance under ARRA, they will be allowed to keep their current benefit plan for up to 9 months by paying 35% of the applicable premium. (As with regular COBRA, employers may charge no more than 102% of the regular monthly premium for this coverage.) The remaining 65% of premium must be paid by the employer who will seek reimbursement from the Federal Government by relief on payroll taxes on IRS Form 941. Your accountants or auditors should be able to assist you with this step.

To assist you in complying with this new law, TLC is providing a sample State Continuation Notice that should be distributed to those individuals who were involuntarily terminated between September 1, 2009 and December 31, 2009. You should insert the required information highlighted in Red and reproduce on your letterhead. After completion, you should eliminate the red font. Distribution should be made via first class mail as soon as possible and before May 8, 2009.

If you have questions, please contact Walter E. Norman, TLC Program Manager at (804) 786-6460 or via email at walter.norman@dhrm.virginia.gov.

Important Note

Small Group Coverage Continuation is a new Virginia law providing a new opportunity for those Assistance Eligible Individuals (AEIs) who experience a loss of coverage because of involuntary termination of employment to continue their coverage for up to 9 months. It does not replace the 90-day continuation option that exists in our group policies. That option still provides opportunities for coverage for individuals who are not eligible for premium assistance, who may waive premium assistance because of income limitations, or who may experience terminations of coverage that are voluntary or not related to loss of employment.

STATE CONTINUATION COVERAGE

Code of Virginia § 38.2-3541.1. Continuation following involuntary termination of employment; special circumstances.

- A.** For purposes of meeting the definition of "COBRA continuation coverage" in Title III of Division B of the American Recovery and Reinvestment Act of 2009, P.L. 111-5 (the Act), employees who are involuntarily terminated during the period beginning September 1, 2008, and ending December 31, 2009, or during any period for which premium assistance is specified by the Act as later amended, shall be offered the option to continue their existing group health insurance coverage subject to the following:
1. Coverage shall continue for a period of up to nine months following the date of (i) involuntary termination for those terminated on or after the date of enactment of this section or (ii) following the date of the notification required pursuant to subdivision 3, contingent upon the involuntarily terminated employee's eligibility for premium assistance under the Act;
 2. Premium payments (i) may be paid on a monthly basis to the group policyholder and (ii) shall not exceed 102 percent of the insurer's current premium rate applicable to the group policy;
 3. Employers shall provide notification of the availability of continuation under this section as follows:
 - a. Notification shall be provided to those employees whose employment was terminated on or after September 1, 2008, and prior to February 17, 2009, in accordance with Section 3001 of the Act;
 - b. Notification shall be provided to those employees whose employment was terminated on or after February 17, 2009, and prior to the date of enactment of this section, no later than 60 days following the date of enactment of this section or the employee's termination, whichever is later; and
 - c. Notification shall be provided to those employees whose employment was terminated after the date of enactment of this section no later than 30 days following the date of the employee's termination;
 4. The employee shall elect this continued coverage no later than 60 days following notification of plan enrollment options; and
 5. All other provisions, restrictions and limitations contained in the Act shall apply.
- B.** The provisions of this section shall only apply to employees of small employers whose group health insurance coverage does not provide for continuation of coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).
- C.** As used in this section, "group health insurance coverage" and "health insurance issuer" shall have the same meaning as provided in § 38.2-3431.