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ARPA Subsidy

New Notice Required for Small New Jersey Employers

The New Jersey Department of Banking and Insurance recently issued Bulletin No. 21-08, which establishes a new notice requirement for small employers of fully insured group health plans subject to New Jersey State Continuation. The Bulletin provides that employees that were otherwise furloughed or work reduced hours can now have access to coverage under the American Rescue Plan Act (“ARPA”) of 2021.

■ Background

ARPA was signed into law in March 2021 and provides temporary premium assistance for COBRA continuation coverage. In order to qualify for this premium assistance, an individual has to be an Assistance Eligible Individual (“AEI”). In order to be an AEI, the individual must:

- Be eligible for COBRA or NJ state continuation due to a reduction in hours or due to involuntary termination for a reason other than gross misconduct;
- Elect COBRA or NJ state continuation; and
- Not be eligible for other group health coverage or Medicare.

Bulletin No. 20-12 relaxed the full-time requirement so that employees whose hours were reduced did not have to elect COBRA or NJ continuation; rather, furloughed employees or temporarily laid off employees could remain covered under the employer’s group health plan.

■ Bulletin 21-08

Small employers that continued to cover employees under small employer plans using the relaxed full time requirement or while the employee were furloughed or temporarily laid off are required to comply with new notice requirements in order for those employees to receive premium assistance as AEIs under ARPA.

■ Employer Action

Small employers currently covering employees whose hours were reduced below 25 hours per week or who are on furlough or layoff status should provide notice that coverage ended as of April 1, 2021 and that continuation coverage under COBRA or New Jersey continuation is available. The qualifying event was April 1, 2021. For New Jersey continuation, employers should use the Alternative Notice of ARP Continuation Coverage Election Notice that has been modified for use with New Jersey continuation. This notice

may be found at <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/model-alternative-election-notice.pdf>.

For COBRA continuation use the model notice provided at www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra.

Action to Provide an Extended Election Period

Small employers whose employees had the opportunity to elect continuation due to reduced hours, furlough or layoff, but who did not elect continuation or who elected continuation but later terminated it, must be given the opportunity for an extended election period. The Department gave very little notice to comply with the original dates set forth in the Bulletin: employers must provide notice of the extended election period no later than May 31, 2021 with respect to COBRA continuation and no later than 5 business days following July 21, 2021 for State continuation. Employers should provide this notice as soon as possible, if they haven't already.

We will continue to keep you updated.

