



Arizona Mini-COBRA

By Paul Breslau, Breslau Insurance & Benefits Inc.

To address the lack of options for employees (and/or their covered dependents) that lose their group insurance from their employer with fewer than 20 employees (as calculated in the previous calendar year), Arizona legislation passed Senate Bill 1217 to allow limited-time group continuation coverage. Although similar to the federal law called COBRA, Arizona "mini-COBRA" has numerous differences.

Effective with a small group insurance plan renewal on or after January 1, 2019, the new law dictates employers are responsible for notifying employees/dependents (who have been enrolled on a group plan for a minimum of 3 months and who are not entitled to Medicare) of their right to continue group coverage for 18 months ("total coverage period") if they lose coverage due to experiencing any of the following "qualifying" events:

Voluntary or Involuntary termination of employment; reduction of work hours; divorce or separation; death of the employee; employee becomes entitled to Medicare; or loss of dependent status under the group plan.

Employers are required to send a notice to the employee/dependent ("qualifier") within 44 days of the qualifying event (unless the employer knows of a dependent's different address, sending a single letter to the employee will satisfy the notification requirement). If the notice is postmarked within this 44-day window, the qualifier has 60 days (from the date of the letter) to notify the employer of their desire to continue their group coverage. Qualifiers are responsible for premiums back to the date they are terminated from the group plan and must be made within 45 days from the day they notify the employer of their continuation decision.

If the employer does *not* meet the 44-day notification period, qualifiers will be allowed a 120-day election period and to pay premiums back to the coverage termination date. To ease the burden of creating a notice meeting the law's requirements, the Department of Insurance has been tasked with providing a "model notice."

Each qualifier will have an independent right to elect Arizona mini-COBRA. The

premiums for the qualifiers will be based upon the group plan rate plus a 5 percent administration fee. Employers are also required to notify qualifiers of changes to the premiums 30 days prior to the change.

If a dependent is deemed disabled by the Social Security Administration within the first 18 months of continuation coverage, they shall be offered an 11-month extension for a total coverage period of 29 months. If a dependent experiences a divorce, separation, employee's death, entitlement to Medicare or a loss of dependent status during their time under continuation coverage, they shall be offered an additional 18 months of continuation coverage (for a total coverage period of 36 months).

If a qualifier elects to continue coverage, they may continue until the: qualifier completes their total coverage period; qualifier does not make "timely" premium payments; qualifier becomes entitled to Medicare, Medicaid or other healthcare coverage; or employer terminates (without replacing) the group health insurance plan.

The law also addresses continuation coverage for employees in the Military Reserve or National Guard that is outside the scope of this article. For further information you may want to review AZLEG.gov/legtext/53leg/2R/laws/0164.pdf.

Some of the differences we find between the way the Arizona law is written and federal COBRA are:

Regardless of qualifying event experienced, qualifiers will be offered 18 months of coverage. Employers do not have to offer Arizona mini-COBRA to employees/dependents on Medicare at the time of the qualifying event. The law mentions a 45-day grace period for submitting the initial premium payment but never defines "timely manner" payments. Without this information, we would assume subsequent premium payments are due on the first of the month of coverage with no grace period. Only dependents are eligible for the 11 month disability extension. Qualifiers



may be terminated from Arizona mini-COBRA if it is known they have obtained any other coverage. Employers must notify qualifiers of rate changes 30 days in advance of the change. Qualifiers may be charged a 5 percent administration fee. The qualifying event "divorce or separated" does not state "divorce or legal separation."

This article was prepared by Scott Beaver, Vice President, COBRA Solutions, Inc. All contents of this article are his initial opinion of Senate Bill 1217. We request you contact an Arizona benefits attorney for advice on this bill. As a leader in federal COBRA administration software, COBRA Solutions will be creating a product to assist small employers with this new law. On January 1, 2019, you will be able to visit ArizonaMiniCobra.com and purchase a time-saving solution.

Note: Both Kate McGee (the bill sponsor) and the Department of Insurance stated there is no designated penalty for noncompliance. The risk is that a former employee or their dependent could sue the employer for not offering continuation coverage.

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