

2010

# New Jersey State Continuation

## For Groups Not Subject to COBRA

Similar to COBRA, NJ State Continuation provides rights to employees to continue health insurance under certain conditions.



## Table of Contents

Summary .....	3
Qualifying Events for NJ Continuance.....	3
Eligibility for NJ Continuance .....	3
Duration of Coverage After Qualifying Events.....	3
Responsibilities and Issues for an Employer .....	4
Responsibilities and Issues for the Employee.....	4
Cessation of NJ Coverage Prior to end of Continuation Periods .....	4
Additional Scenarios .....	5
Important Considerations .....	5
New Jersey Legislation .....	5
NJDOBI SEH Bulletin 07-SEH-02 .....	5

## Summary

New Jersey Continuation Law (ref: NJSA 17B:27A-27) requires small employers (2-50) not subject to the Consolidated Omnibus Reconciliation Act (COBRA) to offer continuation of **medical and hospitalization coverage** for qualified employees and their dependents covered under New Jersey small employee health benefit plans.

COBRA coverage is limited to employers with 20 or more employees. NJ Continuation requires continuation of coverage for NJ small employers with as few as 2 employees. This law became effective on March 7, 2005.

To read the legislation on NJ Continuation, click [HERE](#).

## Qualifying Events for NJ Continuation

A qualifying event is:

- The date of termination of employment for a reason "other than for cause."
- The date an employee's hours of employment are reduced to less than 25 hours per week.
- The date of death of the employee.
- The date of divorce of the employee from the employee's spouse.
- The date the dependent child ceases to be an eligible dependent (e.g., by reason of age or loss of full-time student status.)

Note: the law does not define "for cause" and the NJ SEH board does not take a position as to whether a termination was "for cause."

## Eligibility for NJ Continuation

An employee, their spouse and their dependent child are all eligible. The term "spouse" includes a legally married spouse, a domestic partner or a civil union partner. Continuation coverage is also available for newly acquired dependents through birth, adoption, marriage, domestic partnership and civil union that occur after the qualifying event.

## Duration of Coverage After Qualifying Events

- **Up to 18 months** in cases of an employee's termination of employment or reduction in work hours.
- **Up to 36 months** for a spouse or dependent child in cases of in the event of death of employee or divorce of the employee from the spouse, or a dependent child ceases to be a dependent child under the terms of the plan.
- **Up to 29 months** in cases where an employee is determined to have been disabled under the Social Security Act.

## Responsibilities and Issues for an Employer

- Employers must notify an employee of their rights under State Continuation of Coverage (See [Sample Template Letter](#))
- Employers are not required to notify a spouse or dependent of continuation coverage.
- Employers should use either a carrier specific or the standard enrollment form (HINT Form) when enrolling an employee in continued coverage.
- Employers cannot require the first premium to be paid when the election is made.
- An employer does not have to pay the carrier for the continuee's coverage prior to receiving payment from the continuee.
- Employer receives one bill from insurance company for all people presently on the plan as active employees or continuing benefits under either law.
- If a premium payment is not received by the continuee's due date, an employer must advise the carrier that the premium has not been paid and the continuee's coverage will then be terminated. If payment is received within a 30-day grace period after the due date, the employer should forward the payment to the carrier specifying that the payment is for the continuee and coverage should be reinstated retroactively.
- Employers may charge no more than 102% of the premium paid to the carrier or 150% for an employee that has been determined to have been disabled under the Social Security Act.
- [Sample Template Notification Letter](#).

## Responsibilities and Issues for the Employee

- The employee must make a written election for continued coverage within 30 days of a qualifying event. The same 30-day period applies to a spouse or dependent children electing coverage under NJ Continuance.
- The employee is required to pay the premium within 30 days of making a continuation election.
- Employee must make payment to the employer. Payment is not to be made to the carrier.
- NJ continuation is "employee-driven" which means that the ability to continue benefits must be due to an event occurring in the employee's life, not the dependents' lives.

## Cessation of NJ Coverage Prior to end of Continuation Periods

Events where coverage under NJ Continuance will cease prior to the applicable 18, 29 or 36 month period:

- Employer chooses to not provide any health benefits plan to any employees.
- The person covered under State continuation fails to provide payment for the plan premium in a timely manner. Premium payments shall be considered timely if made within 30 days after the due date.
- The person covered under State continuation becomes covered under another health benefits plan which contains no limitation or exclusion with respect to any preexisting condition of the covered person, or if a preexisting condition limitation is applicable, the date such limitation ends.
- The person covered under State continuation becomes entitled to benefits under Medicare.

## Additional Scenarios

[NJ DOBI's FAQ on NJ Continuation](#) offers further coverage scenario guidance.

## Important Considerations

- Generally State Continuation is not applicable to dental coverage; it is applicable to only medical and hospitalization coverage. However, some carriers may extend coverage to include dental.
- A covered person who is eligible to continue their group health benefits under COBRA is not eligible to continue under NJ Continuation.
- Employees are eligible for NJ Continuation only if their hours are less than 25 hrs per week. If an employer's eligibility for coverage (as determined by the employer) is 35 hours and the employee is reduced to, for example, 30 hours, that employee will lose coverage.
- A continuee must continue on the same plan they had as an active employee. If the employer changes plans, then the continuee can continue under the new plan for the balance of the continuation period. An exception would be that HMO carriers are not required to offer continuation of coverage for a continuee who lives, resides or works in an area outside the carrier's approved service area.
- **Horizon** requires the employer to use the approved BCBSNJ Enrollment/Change Form (6859).
- Although not mandated by law, **Aetna** and **Horizon** offer the extension of dental coverage to continuees if it is not prohibited under the group's contract.
- Once an election is made, an employee has 30 days to make the initial premium payment. Upon receipt of the premium, the employer must immediately forward the premium and the continuation enrollment paperwork to the carrier. A continuee cannot be denied NJ continuation coverage by a carrier if the carrier receives the premium payment within 30 days of a valid election.

## New Jersey Legislation

[NJDOBI SEH Bulletin 07-SEH-02](#): State Continuation of Coverage

**Summary:** A comprehensive overview, including recent amendments, of NJ Continuation. Detailed FAQ section is provided. This bulletin also addresses continuation rights for civil union partners and domestic partners.