



STATE OF WEST VIRGINIA

# Offices of the Insurance Commissioner

JOE MANCHIN III  
Governor

JANE L. CLINE  
Insurance Commissioner

April 2009

WEST VIRGINIA INFORMATIONAL LETTER  
NO. 168 (REVISED 4/10/2009)

**TO: All Insurance Companies Writing Group Accident and Sickness Insurance Policies in West Virginia, Third Party Administrators, Insurance Media Publications and Other Interested Persons**

**RE: Extended election period for COBRA coverage pursuant to the American Recovery and Reinvestment Act of 2009**

**COBRA subsidies.** The Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA, gives workers who lose their jobs, and thus their health benefits, the right to purchase group health coverage provided by the plan under certain circumstances. If the employer continues to offer a group health plan, the employee and his/her family can retain their group health coverage for up to 18 months by paying group rates. The recently-enacted American Recovery and Reinvestment Act of 2009 (ARRA) provides for premium reductions for COBRA coverage. Under ARRA, eligible individuals pay only 35% of the full COBRA premiums, and the remaining 65% is reimbursed to the coverage provider through a tax credit. The premium reduction lasts for up to nine months and is generally available to any person who was COBRA-eligible between September 1, 2008 and December 31, 2009 and such eligibility is a result of the employee's involuntary termination from his/her job.



Although COBRA generally does not apply to plans sponsored by employers with fewer than 20 employees, West Virginia has a similar requirement, commonly called "mini-COBRA," covering all employer-sponsored plans providing benefits through an insurance company. The state law requires that 18 months of coverage be offered to employees involuntarily laid off. The ARRA premium reduction is available for plans covered by this law.

**Special COBRA Election Opportunity:** Individuals involuntarily terminated from September 1, 2008 through February 16, 2009, who did not elect COBRA when it was first offered or who did elect COBRA but are no longer enrolled (for example because they were unable to continue paying the premium) have a new election opportunity under ARRA. This extended election period ends 60 days after the plan provides the required notice, but it does not extend the period of COBRA continuation coverage beyond the original maximum period of 18 months from the employee's involuntary termination.

Although ARRA permits states to similarly extend this extended election period to persons covered by mini-COBRA laws, the federal agencies responsible for overseeing ARRA's implementation have indicated that each state must act to permit such an extended election period under those state laws. Because West Virginia's mini-COBRA law contains no specific notice requirements, it is not clear that any additional state action is necessary to permit an election now with respect to a termination that occurred months ago. However, because small employers

usually follow COBRA notice rules when complying with West Virginia's mini-COBRA law, it has been decided that this letter is necessary to formally advise administrators of affected group plans that they must accept for state continuation coverage those individuals involuntarily terminated on or after September 1, 2009. Such individuals should be provided notice of the special extended election period; **ARRA mandates that this notice be provided by April 18, 2009.** For your convenience, the alternative notice and election form are provided on the OIC website.

<http://www.wvinsurance.gov/forms/cobra.htm>

**Note on pending legislation.** As of the date of this revised informational letter, Senate Bill 552 has passed both houses of the West Virginia Legislature and will be sent to the Governor for his signature. This bill, which would be effective April 10, statutorily mandates that the extended election period be afforded eligible individuals. A copy of the bill will be posted on the OIC website; persons affected by this legislation are advised to monitor its progress.

Questions about this letter may be addressed to Timothy Murphy at [Timothy.Murphy@wvinsurance.gov](mailto:Timothy.Murphy@wvinsurance.gov) or (304)558-6279 x 1210.

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