Small Group Employers and Insurers Providing Coverage Under State Continuation Law

If an employer has fewer than 20 employees, those employees receive continuation coverage under the state continuation law rather than the federal law.

In order to be eligible under state continuation law, an employee must have been:

- Involuntarily terminated on or after February 17, 2009 through December 31, 2009, or those who elected continuation coverage;
- Continuously insured under a group plan during the 3 month period preceding the termination of employment;
- Entitled to unemployment compensation benefits under Chapter 4141 of the Revised Code;
- Not covered or eligible for coverage under Medicare;
- Not covered or eligible for coverage under other group coverage.

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The regular premium amount may continue to be paid by the former employee for up to 2 months after enactment (e.g. March and April). A former employee who has already paid the entire amount of premium for their coverage is entitled to be reimbursed or credited for the amount of the overpayment by the insurance company.

Eligible individuals who previously terminated or declined to elect group continuation coverage will not have a state equivalent extended eligibility period. Special election opportunity is not applicable to employers with less than 20 employees.

Small employers who contract with an insurance company for health benefits will collect the 35% of the premium from the former employee and submit that as payment in full to the insurance company. The insurance company will claim the credit for the 65% of the premium not paid by the former employee from the Internal Revenue Service. The insurer will claim the premium as a credit against payroll tax owed on IRS form 941.

Small employers must notify terminated employees of the federal premium subsidy. The Department of Labor will provide model notices and rules specifying the time by which employers must give notice of the federal premium assistance. The model notice is expected to be released by the middle of March.

Although the federal subsidy lasts for <u>9</u> months, Ohio continuation coverage only extends for <u>6</u> months. The maximum period of time that a person can receive the subsidy is <u>6</u> months. Under federal law, the subsidy ends when a person is no longer eligible for state continuation coverage or when the individual becomes eligible for other group insurance, or Medicare (whichever comes first).

Small employers may be asked to provide the insurance company with information to verify the former employees' eligibility under the statute. Documentation may include:

- Attestation of involuntary termination including date of involuntary termination which must be during the period of February 17, 2009 through December 31, 2009, for each covered employee whose involuntary termination is the basis for the eligibility for the subsidy and;
- Proof of each former employee's eligibility for state continuation coverage and election of state continuation coverage.

Insurers are required to provide the state continuation subsidy as the subsidy applies to insures subject to the Federal COBRA continuation coverage requirements or to similar requirements under State Law.