
LEGALLY SPEAKING

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OHIO DEPARTMENT OF INSURANCE MANDATES RELAXED INSURANCE AND COBRA REQUIREMENTS AMIDST CORONAVIRUS STATE OF EMERGENCY

Over the last two weeks, Ohio has been the subject of numerous statewide guidelines, mandates, executive orders and other agency bulletins and orders impacting nearly every facet of daily living. One such advisory bulletin – Bulletin 2020-03: Health Insurance Coverage Flexibility for Ohio Employees (the “Bulletin”) – was issued on Friday, March 20, 2020, by the Department of Insurance, which mandates relaxed insurance requirements during the present state of emergency that provide additional and more flexible insurance options for employees displaced due to the Coronavirus outbreak.

The Bulletin orders and directs insurers that conduct business in the State of Ohio to comply with four new requirements during the state of emergency. Here is what employers need to know.

(1) Employee Eligibility: The Bulletin requires that insurers allow employers to continue covering employees under group policies even when an employee would

otherwise be ineligible due to a decrease in weekly hours worked. Additionally, the Bulletin temporarily suspends any “actively at work” or other similar policy requirements related to eligibility.

(2) Premiums: Insurers are prohibited from increasing premiums based on a group’s decreased participation or enrollment due to the impact of COVID-19. The Bulletin also requires insurers to give their insureds the option to defer premium payments, interest free, for up to 60 calendar days from each original premium due date.

(3) COBRA: For employers with 20 or more employees, eligible employees may elect to continue coverage under COBRA as long as one person remains actively employed. In this instance, normal notice and election procedures remain applicable. For employers with less than 20 employees, eligible employees may elect to continue coverage under state continuation coverage for up to 12 months, as long as one person remains actively employed and enrolled in the plan. In this instance, insurers are required to work with employers to ensure employees receive proper notice of their options. If no active employees remain employed and enrolled in a plan, then neither COBRA nor state continuation coverage will be available, and instead, employees will be eligible for a special enrollment period.

(4) Special Enrollment Period: The Bulletin provides for a special enrollment period to enroll in new insurance coverage for those employees who lose coverage because of COVID-19. Some individuals may qualify to purchase plans on the federal exchange, which are effective the first day of the next month following enrollment. The Bulletin also requires insurers waive normal special enrollment procedures for policies

sold outside of the federal exchange, and mandates that insurers permit applicants to obtain coverage effective the day after their loss of employment.

The Bulletin requires insurers that transact business in the State of Ohio to comply with these new requirements throughout the period of the current state of emergency. While the Superintendent of Insurance will not take enforcement actions against insurers that adjust their policies in response to these new requirements, insurers who ignore these requirements will be subject to enforcement actions. The Bulletin will automatically expire upon the expiration of the state of emergency declared by Governor Mike DeWine on March 9, 2020.

Employers should consider how these new requirements under the Bulletin impact their workforce and, when faced with any workforce reductions during this state of emergency, should take steps to ensure proper employee notice where appropriate. While this guidance will assist employers in dealing with these complicated issues, please be reminded that this is an overview of developing legal issues and is not intended to be and should not be construed as legal advice. We will remain open and available during the shutdown in order to provide legal services.

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