



Question: The Bureau of Insurance has received inquiries about employers who wish to keep their employees on their health plan even after they have been laid off. Are their regulatory or legal barriers in Virginia to the plans allowing this approach if they so choose?

Response: The Bureau offers the following comments on the proposal that insurers permit employers to keep their employees who have been laid off on their insurance plans:

The Bureau is not aware of any specific regulatory bar in Virginia to employers keeping their employees on their health plans when the employees are laid off. However, several issues should be considered prior to implementing this proposal.

- Insurers should communicate with their insureds regarding how long they are willing to continue insuring laid off employees. Employers should be clear about how long they are willing to keep the employees on their insurance plan.
- If such a proposal were to be put in place, it must apply to all employees that are currently on the employer's insurance.
- If an employee's status should change or the employer decides to terminate coverage, statutory requirements for notice and continuation of coverage apply (see below).

Question: What is the employer's responsibility for notifying employees of their health coverage continuation rights under a group health plan? What is the employer's responsibility when the health coverage under a group health plan is terminated?

Response: Section 38.2-3541 of the Code of Virginia sets forth requirements for the group policyholder to provide notice to each terminated employee as well as the employee's eligibility for continuation of coverage following the date of the termination of the person's coverage.

The requirements are as follows:

- Employers are required to provide a written notice to employees within 14 days of their knowledge of the employee's or other covered person's loss of eligibility for coverage of their rights to continue their health insurance coverage. The notice must provide the procedures and timeframes for obtaining continuation coverage.

- Employers with group health coverage are required to offer enrollment opportunities for employees and dependents who are eligible for the coverage, but are not enrolled if they are:
 - losing eligibility for coverage under the Commonwealth's Medicaid or FAMIS program; or
 - becoming eligible for premium assistance under either program.

The employee or dependent must request coverage within 60 days of being terminated from coverage under the state program or 60 days of becoming eligible for premium assistance. Employers are required to notify employees of their potential eligibility for premium assistance under these state programs.

- Employers who assume part or all the cost of providing health coverage for employees under a group health policy, or provide a means for deducting the full amount of the premiums from employees' salaries to remit to the insurer, are required to give written notice to participating employees in the event of termination, or upon the receipt of notice of termination of the policy no later than 15 days after the termination of the policy. If an employer provides health coverage for employees through a self-insured plan, the written notification is also required to be provided to participating employees no later than 15 days after the termination of the plan.
- If group coverage is terminated due to non-payment of premium by the employer, the insurer cannot terminate coverage until the employer has been provided a written notice of termination with a specific date, not less than 15 days from the date of the notice, that coverage will be terminated if the overdue premium is not paid. Coverage cannot be terminated by the insurer for at least 15 days after the notice has been mailed.
- Employers covered under federal COBRA provisions must adhere to those requirements for notice and termination.