

TITLE 210 -- NEBRASKA DEPARTMENT OF INSURANCE

CHAPTER 86 -- REGULATION TO IMPLEMENT THE AMERICAN RECOVERY AND REINVESTMENT ACT FOR PURPOSES OF CONTINUATION OF COVERAGE FOR SMALL GROUP INSURANCE

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001 Purpose

The purpose of this regulation is to provide for the implementation of the American Recovery and Reinvestment Act of 2009, allowing for the premium subsidy for insureds who have been involuntarily terminated from employment when their employer has two but no more than twenty employees as authorized pursuant to the Nebraska Small Employer Health Insurance Availability Act.

002 Authority

This regulation is issued pursuant to the authority vested in the Director under Neb. Rev. Stat. §44-101.01, and §§44-5223 through 44-5267.

003 Applicability and Scope.

This regulation shall apply to individuals who are insured pursuant to the Nebraska Small Employer Health Insurance Availability Act and qualify as an assistance eligible individual pursuant to the American Recovery and Reinvestment Act of 2009, to employers who qualify under the Nebraska Small Employer Health Insurance Availability Act and are employers of assistance eligible individuals, and to insurers who insure assistance eligible employees, via the eligible employer under the Nebraska Small Employer Health Insurance Availability Act and who will also provide the 65% subsidy to the assistance eligible employee pursuant to the American Recovery and Reinvestment Act of 2009.

004 Additional Continuation Election

An extended election period is available to an individual who qualifies as an assistance eligible individual pursuant to the American Recovery and Reinvestment Act of 2009 and has been involuntarily terminated from employment between September 1, 2008 and thirty days after enactment of this regulation, provided the individual has failed to elect continuation coverage upon the qualifying event as provided in the American Recovery and Reinvestment Act of 2009. The assistance eligible individual shall be given a second chance to elect continuation of coverage as provided in this regulation. If the assistance eligible employee had received a notice from the insurer pursuant to the American Recovery and Reinvestment Act of 2009 between September 1, 2008 and May 1, 2009, and did not elect to continue coverage pursuant to the Nebraska Small Employer Health Insurance Availability Act, that employee is ineligible to enroll in the continuation of coverage program and receive the subsidy. The insurer shall, no later than thirty days following the enactment of this regulation, provide notice to assistance eligible individuals, as certified by the individual's employer, of the right to elect coverage pursuant to this section. An assistance eligible individual electing continuation pursuant to this section must make the election to the insurer within thirty days following receipt of the notice.

005 Notification Requirements

The insurer shall, upon receipt of certification from the employer of an assistance eligible individual's notice of involuntary termination, provide notice of the right to elect coverage, pursuant to section 004 of this regulation and as required by the American Recovery and Reinvestment Act of 2009, no later than thirty days after enactment of this regulation. Election shall be made by an assistance eligible individual to the insurer within thirty days following receipt of the notice. The insurer shall require the social security number of an individual applying for continuation coverage pursuant to this regulation and the appropriate premium amount to the insurer.

006 Period of Extended Election Coverage

Continuation of coverage elected pursuant to §004 of this regulation commences with the first period of coverage beginning on or after May 1, 2009, and may extend for the period as though the election had been made pursuant to Neb. Rev. Stat. §44-1640 through §44-1642, inclusive, upon the date of the qualifying event.

007 Treatment of Extended Election Coverage

Any person electing continuation pursuant to §004 of this regulation is considered as having continuing coverage from the time of the qualifying event and shall be disregarded for purposes of determining the sixty-three day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974, section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act.

008 Premium Subsidy

An individual electing continuation of coverage under section 004 shall be entitled to the premium subsidy as permitted in the American Recovery and Reinvestment Act of 2009 so long as the individual qualifies as an assistance eligible individual as defined in the American

Recovery and Reinvestment Act of 2009, and meets the requirements of the Nebraska Small Employer Health Insurance Availability Act and this regulation. This subsidy shall commence with the first period of assisted continuation of coverage beginning on or after May 1, 2009 and shall end upon the earliest date provided for under Neb. Rev. Stat. §44-1640 *et. seq.*, or the date the individual is no longer eligible for premium reduction under the American Recovery and Reinvestment Act of 2009. Premiums for the continuation coverage shall be paid by the assistance eligible individual to the insurer.

009 Sunset Provision

This regulation shall be in effect until December 31, 2009.