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March 11, 2009

TO: Certifying Officers of Local Government Employers in the SHBP
Certifying Officers of Local Education Employers in the SEHBP

From: The Division of Pensions and Benefits, Health Benefits Bureau

Subject: **COBRA and the American Recovery and Reinvestment Act of 2009 — Request for Information**

The federal American Recovery and Reinvestment Act (ARRA) of 2009 — also known as the Stimulus Bill — was approved by Congress and subsequently signed into law by President Obama on February 17, 2009.

Among the provisions in the law affecting the State Health Benefits Program (SHBP) and School Employees' Health Benefits Program (SEHBP) is an expansion of the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) which creates a nine-month, federal subsidy of COBRA premiums and a "second chance" for COBRA enrollment for certain terminated employees.

Many of the details for administering the COBRA subsidy and enrollment are still being finalized; however, the short enactment schedule of the law requires certain immediate actions by employers and the Division of Pensions and Benefits.

This letter outlines the immediate actions required of employers by the Division in order to determine the eligibility of employees for the benefits (see page 2).

EMPLOYER ACTION REQUIRED

As a result of this legislation, the SHBP, SEHBP, and its participating employers and plan administrators, face new COBRA notification responsibilities. **All employees who were involuntarily terminated** from employment *on or after* September 1, 2008 must be notified of the COBRA premium subsidy and/or the "second chance" opportunity for COBRA enrollment. Notification must occur within 60 days of the law's enactment, or *no later than* April 18, 2009.

Therefore, employers must IMMEDIATELY identify all employees who were involuntarily terminated between September 1, 2008 and the present date and report that information to the Health Benefits Bureau of the Division of Pensions and Benefits.

The enclosed health benefits *COBRA Subsidy Roster* is provided for reporting purposes. Completed, certified rosters are to be returned to the Health Benefits Bureau no later than March 31, 2009. Once the rosters are received, the Health Benefits Bureau will notify former employees of their eligibility for the subsidy and “second chance” opportunity for COBRA enrollment.

- Upon identifying *involuntarily* terminated employees and verifying their eligibility, the Division will adjust COBRA billing for current, eligible enrollees to the 35% premium amount.
- **Employers are required to notify all employees (both those who voluntarily terminate employment and those involuntarily terminated) who have a COBRA qualifying event**, from the date of the law’s enactment until December 31, 2009, of the availability of the COBRA premium subsidy when involuntarily terminated. A revised *COBRA Notice* and detailed notification instructions are currently being prepared by the Division and will be made available to employers and will also be on the Division’s Web site when available.

ELIGIBILITY AND BENEFITS

The following is a brief description of the eligibility criteria and COBRA benefits provided under the ARRA. Additional information and administrative details will be provided to employers and eligible individuals as it becomes available.

- To be eligible for the COBRA premium subsidy or “second chance” COBRA enrollment, an individual must have been ***involuntarily terminated*** from employment *on or after* September 1, 2008 (and prior to December 31, 2009). Qualifying dependents of these terminated employees may also be eligible for a COBRA premium subsidy.
- Eligible individuals currently enrolled in COBRA (covered *involuntarily* terminated employees and qualifying dependents), will receive a COBRA premium subsidy for up to nine months beginning March 1, 2009. Eligible individuals will be responsible for paying only 35% of the regular COBRA premium.
- Eligible individuals who did not elect COBRA coverage — or who elected COBRA coverage but subsequently dropped it for reasons other than eligibility for other coverage or reaching the end of the COBRA eligibility period — will be offered a “second chance” for COBRA enrollment along with the 35% premium subsidy.
- **The provisions of the ARRA do not extend the period of COBRA coverage** to which the employee is entitled. In most cases 18-months is the period of COBRA eligibility following termination of employment.

- Individuals with incomes *over* certain salary limits¹; who become eligible for another group health plan or Medicare; who *voluntarily* terminated employment, or who were *involuntarily* terminated for reasons of gross misconduct are not eligible for the subsidy or “second chance” COBRA enrollment. If enrolled in COBRA, these individuals continue to pay the full COBRA premium.

ADDITIONAL INFORMATION

Additional details concerning the ARRA, the COBRA subsidy, and employers’ administrative duties and responsibilities will be provided as the information becomes available to the Division of Pensions and Benefits.

Meanwhile, the federal Department of Labor has issued a preliminary fact sheet, informational posters, and fliers. These are available at: www.dol.gov/ebsa/COBRA.html.

The Internal Revenue Service has also issued a press release and posted a question and answer page for employers on its Web site at: www.irs.gov/newsroom/

General questions regarding COBRA coverage under the SHBP can be addressed to the Division of Pensions and Benefits, Office of Client Services by calling (609) 292-7524 or by sending e-mail to: pensions.nj@treas.state.nj.us

Enclosure
COBRA Subsidy Roster

¹ *Individuals with annual income exceeding \$145,000 per year, and couples with income exceeding \$290,000 per year, are not eligible for the subsidy and will pay the full COBRA premium. The subsidy is also phased out starting at \$125,000 for individuals and \$250,000 for couples. Individuals who receive subsidies during a year in which they exceed these income limits will be required to repay the subsidy. Subsidy repayments are captured on the individual’s federal income tax return. Individuals may also make a permanent election to waive the subsidy. It is not the employer’s responsibility to verify the income of former employees.*

Department of the Treasury – Division of Pensions and Benefits
STATE HEALTH BENEFITS PROGRAM AND SCHOOL EMPLOYEES' HEALTH BENEFITS PROGRAM

COBRA SUBSIDY ROSTER

Name of Employer: _____ SHBP/SEHBP Identification Number: _____

Employer Address: _____ City: _____ State: _____ Zip: _____

Name of Certifying Officer: _____ Phone Number: _____

Signature of Certifying Officer: _____ Date: _____

Employee Name: _____ Social Security Number: _____

Last Known Address: _____ City: _____ State: _____ Zip: _____

Termination Date: _____ Termination Reason: _____

Was Employee Terminated for Misconduct? No Yes

Does the Employer pay any portion of the COBRA Premium? No Yes *If yes give dollar amount or percentage:* _____

Employee Name: _____ Social Security Number: _____

Last Known Address: _____ City: _____ State: _____ Zip: _____

Termination Date: _____ Termination Reason: _____

Was Employee Terminated for Misconduct? No Yes

Does the Employer pay any portion of the COBRA Premium? No Yes *If yes give dollar amount or percentage:* _____

Employee Name: _____ Social Security Number: _____

Last Known Address: _____ City: _____ State: _____ Zip: _____

Termination Date: _____ Termination Reason: _____

Was Employee Terminated for Misconduct? No Yes

Does the Employer pay any portion of the COBRA Premium? No Yes *If yes give dollar amount or percentage:* _____

Please return this completed roster to the Division of Pensions and Benefits no later than March 31, 2009

To list additional involuntarily employees use a copy of this form.

Department of the Treasury – Division of Pensions and Benefits
STATE HEALTH BENEFITS PROGRAM AND SCHOOL EMPLOYEES' HEALTH BENEFITS PROGRAM
COBRA SUBSIDY ROSTER

The federal American Recovery and Reinvestment Act (ARRA) of 2009 provides for a subsidy of COBRA premiums and/or a “second chance” for COBRA enrollment to individuals who were *involuntarily* terminated from employment after September 1, 2008. In order to identify these individuals and implement the provisions of the law, the Health Benefits Bureau of the Division of Pensions and Benefits requests employers to identify *involuntarily* terminated employees who may qualify under the ARRA.

INSTRUCTIONS

- Enter the employing entity’s SHBP or SEHBP identifying information requested on the form.
- List each employee who was *involuntarily* terminated since September 1, 2008 and provide the last known address for each employee.
- For each employee, indicate the reason for termination.
- For each employee, indicate if the employing entity pays *any part* of the former employee’s COBRA premium. If it does, indicate the dollar amount or the percentage paid.
- List all *involuntarily* terminated employees. If necessary, use additional copies of the form — number each page and the total number of pages at the lower right.

Return the completed roster(s) to the Division of Pensions and Benefits no later than March 31, 2009.

**HEALTH BENEFITS BUREAU
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