

Employee Benefits Division Policy Memorandum

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Subject: Dependent Eligibility Audit issues

ISSUES

What date shall serve as the date upon which dependent eligibility is evaluated?

What effective date should be applied when removing ineligible dependents from NYSHIP enrollment in the course of the 2009 Dependent Eligibility Audit?

If the enrollee's last dependent is removed from NYSHIP enrollment, resulting in a change in coverage from Family to Individual, what premium shall be charged to the enrollee and the employer?

If a non-federally qualified dependent is removed from NYSHIP enrollment and the enrollee pays premium on a pre-tax basis, how shall the Department address employer and enrollee compliance with federal pre-tax and imputed income requirements?

Shall dependents removed from NYSHIP enrollment in the course of the audit be offered continuation coverage under COBRA?

BACKGROUND

As amended by the Legislature in 2008, Civil Service Law (CSL) section 164 authorizes the Department to conduct an eligibility audit of NYSHIP enrollee dependents and concomitantly to establish an amnesty period during which enrollees may report dependents who are not eligible and to terminate their eligibility on a current basis. In pertinent part, CSL section 164 states:

During the fiscal year two thousand eight - two thousand nine, the president [*of the Civil Service Commission*] shall establish an amnesty period not to exceed sixty days.

During this amnesty period when any employee enrolled in the plan voluntarily identifies any ineligible dependent:

- (a) the termination of the ineligible dependent's coverage resulting from such employee's timely compliance shall be made on a current basis;

- (b) the plan shall not seek recovery of any claims paid based on the coverage of the ineligible dependent;
- (c) the employee shall not be entitled to any refund of premium paid on behalf of any such ineligible dependent; and
- (d) the employee shall not be subject to any disciplinary, civil or criminal action, directly as a result of the coverage of the ineligible dependent.

The Department's contract for services to conduct the eligibility audit was approved by OSC on January 6, 2009; the contract requires that the Contractor's performance under this Agreement commence no later than fifteen days from the effective date of the Agreement. It is anticipated that the amnesty period will be established to be effective April 14 – June 12, 2009. The eligibility of all dependents of record as of February 1, 2009, will be reviewed.

POLICY

Dependents Removed During Amnesty

- All ineligible dependents reported during Amnesty will be removed from coverage, effective the day following the last day of the Amnesty Period.
- *NYS enrollees that participate in PTCP:* If removing the dependent(s) results in a change in coverage from Family to Individual, the enrollee must continue to pay the enrollee share of Family premium for the remainder of 2009. The State will pay the employer share of Individual premium, after coverage changes from Family to Individual. The premium paid to the insurer(s) will be the individual premium and the balance will be retained by the employer.
- *All other NYS enrollees (NYS enrollees that do not participate in PTCP), Participating Employer (PE) enrollees and Participating Agency (PA) enrollees:* In those cases where removing the dependent results in a change in coverage from Family to Individual, the enrollee and employer will be billed the respective share of Individual premium. PE and PA agencies will receive notification from the Department advising them to evaluate their compliance with the requirements of any IRC Section 125 plan they may administer and to take appropriate action.

At the end of the Amnesty Period, a notice will be sent to enrollees who had an ineligible dependent removed from coverage, advising the enrollee that this coverage may have resulted in additional tax liability for 2009 and prior tax years. The notice will advise that the Department is unable to provide advice in this matter and recommends that the enrollee contact the IRS toll free telephone assistance for individuals at 1-800-829-1040, or to consult a qualified tax professional. The Department will provide the enrollee with a table of imputed income rates for calendar years 2006, 2007, 2008, and 2009.

- COBRA continuation coverage will be offered to NY and PE dependents removed from coverage during Amnesty, with eligibility commencing the day the individual is removed from eligibility. The 60-day election period will commence as of the date of the Continuation of Coverage notice/application provided to dependents after they have been removed from coverage. The Department will advise PAs that they should determine whether to offer continuation coverage to their enrollees.

Dependents Removed During Audit

- All ineligible dependents will be removed from coverage effective February 1, 2009.
- *NYS enrollees that participate in PTCP:* If removing the dependent(s) results in a change in coverage from Family to Individual, the enrollee must continue to pay the enrollee share of Family premium for the remainder of 2009. The State will pay the employer share of Individual premium, after coverage changes from Family to Individual. The premium paid to the insurer(s) will be the individual premium and the balance will be retained by the employer.
- *All other NYS enrollees (NYS enrollees that do not participate in PTCP), PE enrollees and PA enrollees:* In those cases where removing the dependent results in a change in coverage from Family to Individual, the enrollee and employer will be billed the respective share of Individual premium. PE and PA agencies will receive a memo from the Department advising them to evaluate their compliance with the requirements of any IRC Section 125 plan they may administer and to take appropriate action.
- At the end of the Audit, a notice will be sent to enrollees who had an ineligible dependent removed from coverage, advising the enrollee that this coverage may have resulted in additional tax liability for 2009 and prior tax years. The notice will advise that the Department is unable to provide advice in this matter and recommends that the enrollee contact the IRS toll free telephone assistance for individuals at 1-800-829-1040, or to consult a qualified tax professional. The Department will provide the enrollee with a table of imputed income rates for calendar years 2006, 2007, 2008, and 2009.
- Enrollees will be notified that we reserve the right to retroactively review eligibility back to the dependent's first date of eligibility and recover claim payments made during the period of ineligibility.
- COBRA continuation coverage will be offered to NY and PE dependents removed from coverage during Audit, with eligibility commencing February 1, 2009. The 60-day election period will commence as of the date of the Continuation of Coverage notice/application provided to dependents after they have been removed from coverage. The Department will advise PAs that they should determine whether to offer continuation coverage coverage to their enrollees.

UNIT RESPONSIBILITY

All

Director of Employee Benefits