

Employee Benefits Division Policy Memorandum

Number: Policy Memo 63r2

Date Issued: November 14, 2017

Subject: COBRA Eligibility Regarding Other Health Coverage

PURPOSE:

Determine if an enrollee or dependent is eligible for COBRA coverage when he or she is covered by other health coverage.

BACKGROUND:

In the past, the Employee Benefits Division has questioned whether or not an enrollee who has other health coverage at the time he or she becomes entitled to continuation coverage is eligible for NYSHIP COBRA coverage. At the time COBRA regulations were first implemented, there was little guidance of how to interpret the regulations. Now there is more guidance and evidence based on court proceedings in regards to this topic.

The *Geissal v. Moore Medical Corporation* case provides prominent guidance in determining COBRA eligibility regarding this matter. In the Geissal case, the U.S. Supreme Court rejected the interpretation that an individual who “first becomes” covered under another group health plan prior to the date COBRA is elected would not be eligible for COBRA. The Geissal decision also stipulated that an employer cannot deny COBRA coverage to individuals who are entitled to Medicare benefits on the date of COBRA election.

POLICY:

NYSHIP will permit individuals to enroll in COBRA even when they are covered by one or more additional health plans at the time of the qualifying event, or acquire other (non-Medicare) coverage during the COBRA period. NYSHIP will also permit individuals to enroll in COBRA coverage when they are entitled to Medicare benefits effective on or prior to the date of COBRA election. However, NYSHIP will terminate COBRA coverage when an individual becomes entitled to receive Medicare benefits after the date of COBRA election. See Policy Memo 65r4 regarding procedures for COBRA termination due to Medicare entitlement.