

CHAPTER 63**NOTIFICATION CONCERNING HEALTH BENEFITS PLANS****Authority**

N.J.S.A. 34:11A-16 et seq.; in particular, 34:11A-19.

Source and Effective Date

R.2007 d.25, effective January 16, 2007.
See: 38 N.J.R. 1518(a), 39 N.J.R. 217(a).

Chapter Expiration Date

Chapter 63, Notification Concerning Health Benefit Plans, expires on January 16, 2012.

Chapter Historical Note

Chapter 63, Notification Concerning Health Benefits Plans, was adopted as new rules by R.2007 d.25, effective January 16, 2007. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**12:63-1.1 Purpose**

The purpose of this chapter is to ensure that employees receive adequate notification from their employers of changes to or termination of employer-sponsored health benefits plans.

12:63-1.2 Scope

This chapter shall apply to employers and employees as those terms are defined within N.J.A.C. 12:63-1.3.

12:63-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Carrier” or “health insurer” means any entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Banking and Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company authorized to issue health insurance, a health maintenance organization, a hospital service corporation, medical service corporation and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services. The term “carrier” or “health insurer” shall not include a joint insurance fund established pursuant to State law.

“Change” means any modification to a health benefits plan, including any modification to the level of benefits within an existing health benefits plan, whether that modification results in an increase or diminution in the level of benefits, or a change in the identity of the carrier or health insurer, whether that change in carrier or health insurer results in an increase, diminution or zero-net-effect in the level of benefits.

“Commissioner” means the Commissioner of the New Jersey Department of Labor and Workforce Development or his or her designee.

“Compliance Officer” means the person authorized by the Commissioner of the New Jersey Department of Labor and Workforce Development to conduct investigations under this chapter.

“Employee” means any person suffered or permitted to work by an employer.

“Employer” means any individual, partnership, association, joint-stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of the same, employing any person in this State. For the purposes of this chapter, the officers of a corporation and any agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation.

“Establishment” means a single physical location where business is conducted or where services or operations are performed, such as a regional office, area office, installation or facility.

“Field site” means a physical location where an employer performs services or operations, but does not maintain an office or facility.

“Health benefits plan” means a health benefits plan as defined in N.J.S.A. 26:2S-2.

SUBCHAPTER 2. EMPLOYER RESPONSIBILITIES

12:63-2.1 Notice of health benefits plan termination

(a) Where an employer who provides a health benefits plan to its employees in this State is terminating the health benefits plan, the employer shall provide notice of the plan termination to all employees covered by the health benefits plan at least 30 calendar days prior to the date upon which coverage under the health benefits plan is scheduled to cease.

(b) Notice under (a) above shall:

1. Be in writing;
2. Include the effective date of the plan termination; and
3. Provide the name and contact information of an individual to whom the employee may direct questions pertaining to statutory rights to continuation of coverage.

(c) The employer shall deliver notice under (a) above in such a manner that there is verifiable proof that such delivery has occurred.

12:63-2.2 Notice of health benefits plan change

(a) Where an employer who provides a health benefits plan to its employees in this State is changing the health benefits plan, the employer shall provide notice of the plan change to all employees covered by the health benefits plan on or before the end of the first scheduled work day following receipt by the employer of notification from the health insurer that its employees will be covered by the new plan.

(b) Notice under (a) above shall:

1. Be in writing;
2. Include the effective date of the plan change;
3. Include a description of the plan change;
4. Include the name of the new health insurer, if any; and
5. Provide the name and contact information of an individual to whom the employee may direct questions regarding administration or management of the changed health benefits plan.

(c) The employer shall deliver notice under (a) above in such a manner that there is verifiable proof that such delivery has occurred.

SUBCHAPTER 3. INVESTIGATIONS

12:63-3.1 Right to enter and investigate

(a) The Compliance Officer shall enter without delay and at reasonable times any establishment or field site of any em-

ployer where work is performed by an employee if there is reason to believe that a violation of this chapter has occurred or is occurring and to conduct such investigations as the Compliance Officer shall deem to be necessary.

(b) Employers shall permit the Compliance Officer to question privately any employee or managerial executive and review all records relating to the requirements in N.J.A.C. 12:63-2.

SUBCHAPTER 4. PENALTIES AND HEARINGS

12:63-4.1 Penalties

(a) Any violations of any of the provisions of this chapter shall be punishable by a monetary penalty in the following amounts:

1. First violation - Not more than \$200.00 per employee covered by the health benefits plan; and
2. Second and subsequent violations - \$200.00 per employee covered by the health benefits plan.

(b) Penalties imposed under this section may be recovered with costs in a civil action commenced by the Commissioner by a summary proceeding under the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

(c) The Commissioner may compromise and settle any claim for penalties under this section in such amount as the Commissioner may deem appropriate and equitable under all of the circumstances, including, but not limited to:

1. The past record of compliance with the provisions of the chapter by the person cited;
2. The degree of cooperation afforded to the Commissioner's representatives by the person cited in securing compliance with the provisions of the chapter; and
3. Whether the violation was willful in nature.

12:63-4.2 Hearings

(a) No penalty shall be levied pursuant to N.J.A.C. 12:63-4.1 unless the alleged violator is provided with:

1. Notification of the violation;
2. Notification of the amount of the penalty to be imposed; and
3. An opportunity to request a formal hearing.

(b) A request for a formal hearing shall be made in writing and received by the Commissioner within 15 calendar days following the employer's receipt of the notice of violation.