

# VERMONT LEGAL AID, INC.

## OFFICE OF THE HEALTH CARE ADVOCATE

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By email to: [danielle.fuoco@vermont.gov](mailto:danielle.fuoco@vermont.gov)

April 9, 2021

Danielle Fuoco  
Agency of Human Services  
280 State Drive, Center Building  
Waterbury, VT  
05671-1000

Re: Comments on HBEE, Parts 1, 5, 7 & 8

Dear Dani:

Vermont Legal Aid submits the following comments in response to the proposed changes to Part Seven of the Health Benefits Eligibility and Enrollment (HBEE) rules.

We propose a modification to Rule HBEE 71.03 (E)(3)(ii).

This section defines when employees are eligible for a special enrollment period outside the Annual Open Enrollment. Currently, the rule reads as follows:

*“Termination of employer contributions. In the case of an employee or dependent who has coverage **that is not COBRA continuation coverage**, the conditions are satisfied at the time employer contributions towards the employee’s or dependent’s coverage terminate. Employer contributions include contributions by any current or former employer that was contributing to coverage for the employee or dependent.”*

We propose eliminating the COBRA exclusion. By changing the phrase, “**that is not COBRA continuation coverage**,” to “**including COBRA continuation coverage**,” it will expand this special enrollment period to individuals who are enrolled on COBRA and whose former employer terminates its contributions. The Health Care Advocate’s office has worked with Vermonters whose former employer suddenly stopped contributing to COBRA coverage, which meant that they could not afford the COBRA premiums and lost their coverage. Under the current HBEE rules, they do not have a special enrollment period to get on Vermont Health Connect, which meant they often ended up with no coverage for the rest of the year.

This change would also make Vermont's HBEE rules consistent with the Federal marketplace, which currently allows for a special enrollment period in this scenario. (See <https://www.healthcare.gov/unemployed/cobra-coverage/>)

In addition, the American Rescue Plan Act (ARPA) includes a provision which allows COBRA premiums to be subsidized from April to September 2021, for employees who have lost their jobs or had their hours reduced so they no longer qualify for group health insurance. Employers will pay the COBRA premiums and be reimbursed by the federal government. When the federal reimbursement ends in September 2021, it is important for Vermonters to have a special enrollment period, so they can enroll on affordable coverage for the rest of the year.

Therefore, we propose the rule read as follows:

*Termination of employer contributions.* In the case of an employee or dependent who has coverage **including COBRA continuation coverage**, the conditions are satisfied at the time **employer or former employer, state, or federal contributions** towards the employee's or dependent's coverage terminate. Employer contributions include contributions by any current or former employer that was contributing to coverage for the employee or dependent."

Thank you for your consideration.

s\ Marjorie Stinchcombe  
Helpline Director  
Office of the Health Care Advocate  
Vermont Legal Aid