

## That's Life. . . Insurance: The Employer Duty To Notify A Terminated Employee Of The Right To Convert

03/28/17

Life insurance as a part of a group plan is a terrific benefit that employers can offer their employees. However, employers must be aware that offering such a benefit also imposes certain responsibilities on them.

Many states have laws that require that employers notify terminated employees of the ability to convert their insurance from that offered under a group plan to an individual plan. The conversion privilege is especially important to those employees who may have health conditions that make it hard for them to obtain life insurance. This is because an employee can convert his or her policy without being required to have a medical examination required for most individual life insurance policies. New Jersey's law provides that an employee is entitled to written notification that he or she has the right to convert his or her policy within thirty-one (31) days after his or her termination. The written notice must be sent to the employee at least fifteen (15) days prior to the expiration of the thirty-one (31) day period. An employer can fulfill this requirement in two ways. The employer can personally give the written notice to the employee or mail it to the last known address of the individual to constitute notice for the purpose of this law.

What happens if the employer is late in giving notice? If an employer does not provide at least fifteen (15) days' notice prior to the expiration date of the thirty-one (31) day period, the employee must be given additional time to convert his or her life insurance. The additional time must be equivalent to the amount of time necessary to still give the employee fifteen (15) days to convert the policy despite the late notice by the employer. However, in no event must the additional period extend beyond sixty (60) days after the expiration date of the period provided in the policy.

If the terminated employee should die within the thirty-one (31) day conversion period, his or her beneficiary is entitled to the proceeds of the life insurance policy. This is true even when the terminated employee did not elect to convert the policy during that time.

The employer should be aware that it must either provide for this notification itself or ensure that its life insurance company does so, otherwise the employer may be on the hook for damages. The issue of notification should be ironed out prior to the issuance of the group life insurance policy, so there is no confusion down the road when an employee is terminated. This may necessitate a sit down with the broker or the insurance company to make sure the notification process is clear.

Many employers who provide severance to terminated employees include the notice of the right to convert within the severance agreement provided to the employee. This is an easy way to make sure that notice is always provided to the terminated employee. An employer may wish to do this regardless of whether the insurer provides a similar notice.

### **Attorney**

- Stephanie D. Gironda