Dolores Bischof: Thank you. My name is Dolores Bischof. I'm with the Women's Bureau in Dallas. And Deborah Perry has worked for the U.S. Department of Labor Employee Benefits Security Administration (EBSA) for 11 years and is currently the Senior Technical Advisor for the Office of Participant Assistance in Washington, D.C.; however, she does work out of the Dallas Regional Office.

Prior to becoming the Senior Technical Advisor, Deborah was the Supervisory Benefits Advisor that managed the Technical Assistance and Outreach Group in the Dallas Regional Office. Deborah graduated cum laude with a J.D. from Suffolk University Law School. She has an M.S. in Accounting from Bentley College Graduate School and a B.A. in History from Boston University.

Additionally Deborah has earned a Certified Employee Benefits Specialist designation and she is a member of both the Texas and Dallas Bar Associations. Prior to joining EBSA, Deborah worked for Boston University. Deborah…

Deborah Perry: Hi. Thank you, Dolores. I appreciate that. I'm going to be talking a little bit about the group health plans that Eliza mentioned. The U.S. Department of Labor Employee Benefits Security Administration actually enforces a law called ERISA, which is the Employee Retirement Income Security Act.

And what ERISA does is it regulates benefit plans that are sponsored by private sector employers. So those of you that are from state or local governments, our rules don't necessarily apply, but some of them actually apply just through other laws. It's just not something that's enforced through our agency.
So anyway for a lot of people they are able to be covered by employer-sponsored group plans, and, as Eliza mentioned, they do have a lot more protections. She mentioned some of the rules under the Health Insurance Portability and Accountability Act, which is HIPAA.

Group plans will...can only exclude coverage for preexisting conditions generally for 12 months. Sometimes it can be for 18 months. She also mentioned that you have the right to enroll in a group health plan.

And one of the things that's important to understand is that when you've had a life event like Eliza mentioned or say you--both a husband and wife--work and you have coverage under the husband's plan and he's laid off or quits to do something else or whatever, that's a loss of coverage under that plan that also triggers that special enrollment right, especially these days where there's so many layoffs.

What that means though is that you have to, within 30 days, notify the other spouse's plan to let them know that you've had a loss of coverage [in order] to enroll in that plan [the spouse’s plan].

So that way you can actually...you don't have to wait for the open enrollment period that the other plan may have. You're actually entitled to special enrolling, [to] get coverage generally the first of the following month after you've notified them, as long as you do that [notify them] within the 30 days.

So that's something, you know, like I said, with all the layoffs going on, that's something you definitely need to look at in order to keep some coverage in place.

Eliza also mentioned that the group plans are limited to a 12-month preexisting exclusion period. And that's actually...in the group market that can actually be offset by what's considered prior creditable coverage. So as long as you've had
12 months of coverage and you go to a new employer, you're able to turn in your certificate of creditable coverage.

That's just a letter that you get from the plan that says, you know, this participant had coverage from this date to this date, or sometimes it'll say for at least 18 months, with the ending date. And when you turn that in, it essentially wipes out or erases the preexisting condition exclusion period imposed by the plan, so that you won't be subject to any exclusion.

The other thing that's important in a group market is that they cannot exclude coverage for individuals based on insurability. In other words, before HIPAA was passed, they used to be able to require individuals to have a physical to prove that you were insurable.

And they could turn people down in the group market as well. And they can no longer do that. As long as you're an employee and you're covered by the plan according to the plan rules - we'll talk about that a little bit - then they do have to cover you.

Now under ERISA there are actually no mandated eligibility rules or mandated benefits. And employers are not required to provide insurance. So all of these rules apply only if the employer actually does provide insurance as, you know, as an employee benefit.

They are also generally free - although that's not an outright [right]- but generally free to establish the rules of eligibility. So they could say an employee has to work, you know, 40 hours a week or 35 hours a week [to be eligible]. That's not a federal rule. So you'd want to look at your **Summary Plan Description**. That's your booklet that your employer gives you.

[Editor’s Note: Summary Plan Descriptions (SPDs) are important disclosure documents prepared by the plan that describe, in understandable terms, the rights,
benefits, and responsibilities of participants and beneficiaries in ERISA-covered pension, health and other employee benefit plans. The SPD must include important information regarding the plan, such as information on how the plan works, eligibility requirements, what benefits the plan provides, and how those benefits may be obtained. Summary of Material Modifications (SMMs) describe changes made to the plan and changes in the information in the SPD.

Plan sponsors are required to automatically provide copies of these documents to plan participants upon enrollment and upon written request of a plan participant or beneficiary. ERISA also gives the Department of Labor the authority to request copies of these documents from plan administrators/employers on behalf of participants and beneficiaries.]

And in that it should have a section on eligibility, and it tells everybody who's eligible for the plan. It should have criteria for the employee, as well as what types of dependents are covered by the plan, for example, at what ages children will be covered under [the plan].

Sometimes if they reach a certain age they have to be certified as in school in order to continue, things like that. So it's very…that's one of the things that's very important to look at is that Summary Plan Description or the benefits booklet.

It's just as Eliza said with the individual policies, if you're going to have a surgery or you need a procedure or something, you want to look at your Summary Plan Description and/or call the benefits line and find out exactly how your plan is going to pay any of those costs, so that you'll be aware of that and use that in your decision in getting your health care.

Beyond the provisions under HIPAA--although I wanted to mention one other thing--under HIPAA, they also cannot impose a preexisting condition exclusion period for pregnancy. You know, as Jane mentioned in the opening remarks, a
lot of women had difficulty finding coverage because they were pregnant or finding a plan that had coverage for pregnancy.

And even if you found it, it was often considered a preexisting condition or would keep you from being able to change jobs. Under the group market they cannot pre-ex, as we call it, pregnancy or pre-ex based on genetic information. So those are all very helpful.

The final thing that they did with HIPAA was that they created, as Eliza mentioned, the guaranteed access to individual coverage. And she mentioned the state risk pools. Well what it means is from a...when you're coming off a group coverage arrangement, first of all you would need to exhaust COBRA [benefits], which we're going to talk about.

But if you have used up your COBRA, you know, you've left your job, you've also used up your COBRA if it was available, as long as you've had at least 18 months of prior coverage, you actually have guaranteed access to the individual market.

That does not mean that your particular insurance company has to provide you with coverage. What it means is that, depending on the...this is where it depends, like Eliza mentioned, on the state. Some states require their insurance carriers to provide this HIPAA guaranteed coverage to a certain number of people; other ones do it through a risk pool.

So to actually find our more information about the HIPAA-guaranteed access, you would need to call the state insurance department in your state and ask them what that mechanism is. And, for example, some may require that you apply for individual coverage and be turned down like twice before you can get into coverage. They all can have slightly different requirements.
Okay. Well if you...let's talk about COBRA a little bit. When you've lost a job either through layoff or termination, or if you've just quit or become disabled, you know, for any various reasons--you've lost your eligibility for the health plan--many of those events are...trigger COBRA. They're COBRA- qualifying events is what they're called.

And it allows you to continue your group coverage for up to 18-36 months, depending on what the event was. But you do have to pay the full cost [of the premium]. COBRA applies to group health plans sponsored by employers with 20 or more employees in the prior year.

So there are some small plans that are exempt from COBRA, but we'll talk about another mechanism that may still help you. But the...for...due to a termination or - and that can be an involuntary or voluntary termination - you're able to continue your insurance for 18 months.

You do have to pay, like I said, 102% of the full premium, so it's what the employee used to pay, plus what the employer was paying. And then certain events such as divorce, loss of dependent child status, or the death of the employee entitles the dependents to actually continue their coverage for 36 months.

Now when an employer sponsors a plan there's two --basically two-- ways they can provide coverage. It's through either buying insurance...so what we traditionally think of, you go to an insurance company, you pay them premiums, and they take over the risk to pay the claims. That's considered a fully insured plan.

And fully insured plans are also subject to state regulations and are covered by some mandated benefits. But they are also for small employers who have fully insured plans, they also can be subject to state continuation laws.
So even if you have [work for] a small employer, if it's a fully insured plan you may be entitled to extend your coverage, like [with] COBRA, just not…it's not actually under federal COBRA. You'd want to check with your state to find out what the laws are. Some states only allow you to continue four months or six months; some do the full 18 months. So it depends on what state you're in.

If the plan is what's called **self-funded**, meaning the employer may hire an insurance company to process claims, but they actually pay the claims out of their own pocket. You don't have a lot of real small employers that do that. But basically those plans are not subject to state-mandated rules and are only subject to federal COBRA, not to any state continuation laws.

Now some of you may have - I'm sorry. I may be going over [my allocated time]--but we'll hit this last topic - some of you may hopefully have heard of the American Recovery and Reinvestment Act, also known as the Stimulus Bill. It provided…one of the things that it provided was that the government is paying a 65% subsidy [for the employee’s COBRA premium]. It's through a tax credit for employers.

But essentially, if a person was involuntarily terminated on or after September 1 and ending on December 31 they can actually, for nine months, if they elect COBRA, they can get 65% of the premium paid by the government. You actually have to apply for that with your employer.

And if your employer actually turns it down you have the right to file an appeal with the U.S. Department of Labor. But that's if you…it's only for people who have an involuntary termination, not all people who are offered COBRA.

But an involuntary termination has a somewhat expansive definition that…for example, it covers people who maybe accepted a buy-out or a severance package.
because there were going to be layoffs. Also if you had to quit because conditions were not tolerable or something. There's actually a rather expansive definition.

And you can find out information about all of these laws--HIPAA, ERISA, ARRA, COBRA--if you look at our Website at www.dol.gov/ebsa for Employee Benefits Security Administration. You can…there's all sorts of links to be able to see various brochures on all the topics.

There's also--if you wanted to see a video that provides more detailed information about HIPAA and COBRA to actually listen to it--there's a video on there called Protecting your Employee Benefits, some dislocated worker brochures about things for people who have experienced job loss to look for.

And if you need help you can also call our benefits advisors. They're all across the country in 10 different regional offices. And that phone number is 1-866-444-3272. It's toll-free, and our benefits advisors can help you with questions about any of your employer-sponsored benefit plans.

And with that I will turn it back over to Dolores, who will be introducing our next speaker.