

ALL-ON-ONE

# COBRA

INFORMATION

## What You Need to Know About COBRA

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requires that most group health plans give employees and their families the opportunity to continue their health care coverage when there is a “qualifying event” that would result in a loss of coverage under an employer’s plan. The purpose of this all-in-one notification is to meet notice requirements under COBRA and provide important information for employees, as well as other health coverage alternatives that may be available through the Health Insurance Marketplace. For more detailed information on COBRA benefits, please contact your organization’s Human Resources Manager.

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# CONTINUATION COVERAGE RIGHTS UNDER COBRA

## Introduction

This poster contains important information about your right to COBRA continuation coverage, which is a temporary extension of health care coverage under a group health plan (Plan) or flexible spending account. Included on this poster is an explanation of COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect your right to get it.

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you and other members of your family when group health coverage would otherwise end. For more information about your rights and obligations under the Plan and under federal law, you should review the Plan's Summary Plan Description or contact the Plan Administrator.

## COBRA Continuation Coverage

COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a qualifying event. Specific qualifying events are listed below. COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage

- must pay -or-
- aren't required to pay for COBRA continuation coverage.

*HR: Check one option*

If you are an employee, you will become a qualified beneficiary if you will lose your coverage under a Plan because of the following qualifying events:

- Your hours of employment are reduced, or
- Your employment ends for any reason other than your gross misconduct.

If you are the spouse of an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because of the following qualifying events:

- Your spouse dies;
- Your spouse's hours of employment are reduced;
- Your spouse's employment ends for any reason other than his or her gross misconduct;
- Your spouse becomes entitled to Medicare benefits (Part A, Part B, or both); or

- You become divorced or legally separated from your spouse.

Your dependent children will become qualified beneficiaries if they lose coverage under the Plan because of the following qualifying events:

- The parent-employee dies;
- The parent-employee's hours of employment are reduced;
- The parent-employee's employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes entitled to Medicare benefits (Part A, Part B, or both);
- The parents become divorced or legally separated; or
- The child stops being eligible for coverage under the Plan as a "dependent child."

If a Plan provides retiree health coverage, then sometimes, filing a proceeding in bankruptcy under Title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to a Plan, and that bankruptcy results in the loss of coverage of any retired employee covered under a Plan, the retired employee becomes a qualified beneficiary. The retired employee's spouse, surviving spouse, and dependent children will also be qualified beneficiaries if the bankruptcy results in the loss of their coverage under a Plan.

A Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the

qualifying event is the end of employment or reduction of hours of employment, death of the employee, commencement of a proceeding in bankruptcy with respect to the employer, or the employee has become entitled to Medicare Benefits (Part A, Part B, or both), the Employer must notify the Plan Administrator of the qualifying event within 30 days of the event.

For all other qualifying events (divorce or legal separation of the employee and spouse or dependent child's losing eligibility for coverage as a dependent child), you must notify the Plan Administrator. The Plan requires you to notify the Plan Administrator within 60 days after the qualifying event occurs, or longer if the Plan allows it. You must send this notice to the employer.

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children.

COBRA continuation coverage is a temporary continuation of coverage that generally lasts for 18 months due to employment termination or reduction of hours of work. Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.

There are also ways in which this 18-month period of COBRA continuation coverage can be extended:

1. **Disability extension of 18-month period of continuation coverage.**

If you or anyone in your family covered under the Plan is determined by Social Security to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to get up to an additional 11 months of COBRA continuation coverage, for a maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of COBRA continuation coverage.

2. **Second qualifying event extension of 18-month period of continuation coverage.**

If your family experiences another qualifying event during the 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if the Plan is properly notified about the second qualifying event. This extension may be available to the spouse and any dependent children getting COBRA continuation coverage if the employee or former employee dies; becomes entitled to Medicare benefits (under Part A, Part B, or both); gets divorced or legally separated; or if the dependent child stops being eligible under the Plan as a dependent child. This extension is only available if the second qualifying event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.

3. **State law** may mandate an extension of the 18-month period of COBRA continuation coverage.

## Other Coverage Options Besides COBRA

Instead of enrolling in COBRA continuation coverage, there may be other coverage options for you and your family through the Health Insurance Marketplace, Medicare, Medicaid, Children's Health Insurance Program (CHIP), or other group health plan coverage options (such as a spouse's plan) through what is called a "special enrollment period." Some of these options may cost less than COBRA continuation coverage. You can learn more about many of these options at [www.healthcare.gov](http://www.healthcare.gov).

## Enrolling in Medicare Instead of COBRA

In general, if you don't enroll in Medicare Part A or B when you are first eligible because you are still employed, after the Medicare initial enrollment period, you have an 8-month special enrollment period to sign up for Medicare Part A or B, beginning on the earlier of:

- The month after your employment ends; or
- The month after group health plan coverage based on current employment ends.

If you don't enroll in Medicare and elect COBRA continuation coverage instead, you may have to pay a Part B late enrollment penalty and you may have a gap in coverage if you decide you want Part B later. If you elect COBRA continuation coverage and later enroll in Medicare Part A or B before the COBRA continuation coverage ends, the Plan may terminate your continuation coverage. However, if Medicare Part A or B is effective on or before the date of the COBRA election, COBRA coverage may not be discontinued on account of Medicare entitlement, even if you enroll in the other part of Medicare after the date of the election of COBRA coverage.

## Special Rule for Flexible Spending Accounts

The Flexible Spending Account will only be available for continuation of coverage if your available balance at the time of the COBRA qualifying event is more than the total contributions you will make for the remainder of the Plan Year under COBRA. Your available balance is your annual election for the flexible spending account benefits for the Plan Year less any reimbursable claims submitted before the qualifying event. COBRA contributions for the remainder of the Plan Year shall include a 2-percent administrative fee. You or your qualified spouse or dependent will not be eligible to make a COBRA election for the flexible spending account in any subsequent Plan Year.

## Continuation Coverage During Family or Medical Leave

During any period during which you are a participant in a Plan and take a family or medical leave as defined in the Family and Medical Leave Act, any benefit elections in force for you shall remain in effect. While you are on paid leave, contributions shall continue. If you are on an unpaid leave, you may elect to prepay required contributions (on a pre-tax basis if the employer provides such a plan) before the commencement of such unpaid leave. Alternatively, you may elect to make such payments on a monthly basis (after-tax only) in accordance with an arrangement that the Plan Administrator shall provide. If coverage is not continued during the entire period of the family or medical leave because you decline to pay the premium, the coverage must be reinstated upon reemployment with no exclusions or waiting periods. If you do not return to work upon completion of the leave, you must pay the full cost of any healthcare coverage that was continued on your behalf during the leave.

## If You Have Any Questions

If you have questions about your COBRA continuation coverage, you should contact the benefits administrator, the company owner, the human resources officer, or you may contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA). Addresses and phone numbers of Regional and District EBSA Offices are available through the EBSA's website at <http://www.dol.gov/ebsa>.

## Keep Your Plan Informed of Address Changes

In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

## Plan Contact Information:

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Name of group health plan

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Name (or position), address, and phone number of officer or owner of company (from whom information about the plan and COBRA continuation coverage can be obtained on request)

# IMPACT OF AFFORDABLE CARE ACT (ACA) EFFECTS ON COBRA

With the emergence of the Health Insurance Marketplace, in accordance with the Affordable Care Act, those seeking continuation of coverage using COBRA benefits now have additional options for choosing health insurance. Beginning on October 1st, 2013, all employers subject to the Fair Labor Standards Act (FLSA) must provide a notice informing all employees of the Health Insurance Marketplace. Beginning January 1st, 2014, you'll be able to buy coverage using the options provided by the notice. In the Health Insurance Marketplace, you could be eligible for a new kind of tax credit that lowers your monthly premiums right away, and you can see what your premium, deductibles, and out-of-pocket costs will be before you make a decision to enroll. Being eligible for COBRA does not limit your eligibility for coverage for a tax credit through the Marketplace. Additionally, you may qualify for a special enrollment opportunity for another group health plan for which you are eligible (such as a spouse's plan), the Health

Insurance Marketplace, or Medicaid, even if the plan generally does not accept late enrollees, if you request enrollment within 30 days after your group health coverage ends because of the qualifying event.

Special enrollment allows individuals who previously declined health coverage the option to enroll for coverage. Rights arise regardless of a plan's open enrollment period. There are two types of special enrollment: 1) upon loss of eligibility for other coverage; and 2) upon certain life events. Under the first, employees and dependents who decline coverage due to other health coverage and then lose eligibility or lose employer contributions have special enrollment rights. For instance, an employee turns down health benefits for herself and her family because the family already has coverage through her spouse's plan; coverage under the spouse's plan ceases. That employee can then request enrollment in her own company's plan for herself and her dependents. Under the second,

employees, spouses, and new dependents are eligible for special enrollment because of marriage, birth, adoption, or placement for adoption. For both types, the employee must request enrollment within 30 days of the loss of coverage or life event triggering the special enrollment.

A special enrollment right also arises for employees and their dependents who lose coverage under a state Children's Health Insurance Program (CHIP) or Medicaid or who are eligible to receive premium assistance under those programs. In these cases, the employee or dependent must request enrollment within 60 days of the loss of coverage or the determination of eligibility for premium assistance. If the employee or beneficiaries cannot take advantage of special enrollment within the allotted time frame, the Health Insurance Marketplace will still be available to them with the appropriate tax credits for purchasing coverage.

# SUMMARY OF QUALIFYING EVENTS, QUALIFIED BENEFICIARIES, AND MAXIMUM PERIODS OF CONTINUATION COVERAGE

The following chart shows the specific qualifying events, the qualified beneficiaries who are entitled to elect continuation coverage, and the maximum period of continuation coverage that must be offered, based on the type of qualifying event. Note that an event is a qualifying event only if it would cause the qualified beneficiary to lose coverage under the plan.

| Qualifying Event  | Qualified Beneficiaries             | Maximum Period |
|---|-------------------------------------|----------------|
| Termination (for reasons other than gross misconduct) or reduction in hours of employment | Employee<br>Spouse, Dependent Child | 18 months*     |
| Employee enrollment in Medicare   | Spouse, Dependent Child             | 36 months**    |
| Divorce or legal separation   | Spouse, Dependent Child             | 36 months      |
| Death of employee   | Spouse, Dependent Child             | 36 months      |
| Loss of “dependent child” status under the plan   | Dependent Child                     | 36 months      |

\*In certain circumstances, qualified beneficiaries entitled to 18 months of continuation coverage may become entitled to a disability extension of an additional 11 months (for a total maximum of 29 months) or an extension of an additional 18 months due to the occurrence of a second qualifying event (for a total maximum of 36 months)

\*\* The actual period of continuation coverage may vary depending on factors such as whether the Medicare entitlement occurred prior to or after the end of the covered employee’s employment or reduction in hours.

## STATE CONTINUATION COVERAGE LAW

Although federal law requires at least 20 employees on staff to be covered under COBRA, individual state law may require continuation of coverage for employers with less than 20 employees. The following states have enacted laws at a state level which require continuation of coverage for employers with fewer than 20 employees:

|                      |               |               |                |               |
|----------------------|---------------|---------------|----------------|---------------|
| Arizona              | Hawaii        | Minnesota     | North Carolina | Tennessee     |
| Arkansas             | Illinois      | Mississippi   | North Dakota   | Texas         |
| California           | Iowa          | Missouri      | Ohio           | Utah          |
| Colorado             | Kansas        | Nebraska      | Oklahoma       | Vermont       |
| Connecticut          | Kentucky      | Nevada        | Oregon         | Virginia      |
| Delaware             | Louisiana     | New Hampshire | Pennsylvania   | Washington    |
| District of Columbia | Maine         | New Jersey    | Rhode Island   | West Virginia |
| Florida              | Maryland      | New Mexico    | South Carolina | Wisconsin     |
| Georgia              | Massachusetts | New York      | South Dakota   | Wyoming       |

Where no state continuation of coverage obligation exists, employers are only required to offer COBRA when they have 20 or more employees. The following states do not have a state continuation coverage requirement:

|         |        |       |         |          |         |
|---------|--------|-------|---------|----------|---------|
| Alabama | Alaska | Idaho | Indiana | Michigan | Montana |
|---------|--------|-------|---------|----------|---------|

For information on how your state’s continuation coverage differs from federal law, please see your Human Resources Manager.

# EMPLOYER NOTICE REQUIREMENTS

Under COBRA, group health plans must provide covered employees and their families with specific notices explaining their COBRA rights. They must also have rules for how COBRA continuation coverage is offered, how qualified beneficiaries may elect continuation coverage, and when it can be terminated.

## Quick Reference Guide to COBRA Notices

| Type of Notice                        | Description   | Trigger / Timing   |
|---------------------------------------|---|--|
| <b>Summary Plan Description (SPD)</b> | A written document that gives important information about the plan, including what benefits are available under the plan, the rights of participants and beneficiaries under the plan, and how the plan works.  | Must be provided to each participant an SPD within 90 days after becoming a plan participant (or within 120 days after the plan is first subject to ERISA's reporting and disclosure provisions).  |
| <b>General Notice</b>                 | Includes general information about continuation coverage, notice requirements, the types of qualifying events, and where the individual can obtain more information about plan benefits. The content of this notice must comply with 2590.606-1 of the EBSA's Final Rules on COBRA Notices.   | Must be sent to employees and spouses within 90 days of becoming covered under the employer's group health plan.   |
| <b>Notice of Qualifying Event</b>     | Notice to the administrator of the plan of the occurrence of a qualifying event that is the covered employee's death, termination of employment (other than by reason of gross misconduct), reduction in hours of employment, Medicare entitlement, or employer filing for bankruptcy. The content of this notice must comply with 2590.606-2 of the EBSA's Final Rules on COBRA Notices.   | Must be sent to COBRA plan administrator within 30 days of employee's loss of coverage or qualifying event.  |
| <b>Election Notice</b>                | A notice describing the rights of the qualified beneficiary to elect COBRA continuation of health benefits under the employer's group health plan or flexible health spending account. This notice must include an Election Form that the beneficiary fills out to communicate whether or not they wish to obtain continuation coverage. The content of this notice must comply with Sec. 2590.606-4(b) of the EBSA final COBRA notice rules. | Must be sent to a qualified beneficiary by the COBRA Administrator within 14 days of notice of a qualifying event (i.e. termination, reduction in hours, death, Medicare entitlement, etc.).<br><br>If the employer is also the COBRA plan administrator, the notice must be sent within 44 days of the date on which the qualifying event occurred. |
| <b>Early Termination Notice</b>       | A notice sent to a qualified beneficiary informing him / her that continuation coverage has terminated earlier than the end of the maximum period of continuation coverage applicable to such qualifying event. The content of this notice must comply with Sec. 2590.606-4(c) of the EBSA final COBRA notice rules.  | The notice must be given as soon as practicable after the decision is made, and it must describe the date coverage will terminate, the reason for termination, and any rights the qualified beneficiary may have under the plan or applicable law to elect alternative group or individual coverage.   |
| <b>Denial / Unavailability Notice</b> | A notice that is sent to individuals who are not entitled to COBRA coverage despite reporting a qualifying event, second qualifying event, or determination of disability by the Social Security Administration. The content of this notice must comply with Sec. 2590.606-4(d) of the EBSA final COBRA Notice rules.   | The plan must give the denied individual a notice of unavailability of continuation coverage within 14 days after the request is received, and explain the reason for denying the request.   |