
COBRA

Questions and Answers

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The information in this pamphlet is intended to provide only a summary of federal law. State health insurance continuation regulations may vary.

COBRA

What is COBRA and who is covered?

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) is a federal regulation covering group health plans maintained by employers with 20 or more employees during 50% of the working days in the preceding calendar year. This law requires employers to offer employees (in certain circumstances), and their qualified beneficiaries, the option of continuing their group health insurance coverage.

Who is a qualified beneficiary?

An individual covered under a group health plan on the day before a qualifying event is a qualified beneficiary. This may include an employer's employees, former employees, and their families.

What is a qualifying event?

An event that otherwise would result in the loss of coverage by a qualified beneficiary is a qualifying event. The following are qualifying events if they result in loss of coverage:

- ◆ Death of the covered employee.
- ◆ Termination (other than by reason of gross misconduct) or reduction of hours of the covered employee's employment.
- ◆ Divorce or legal separation of the covered employee from their spouse.
- ◆ The covered employee becomes entitled to benefits under Medicare.
- ◆ The dependent child ceases to be a dependent child under the requirements of the plan.
- ◆ An employer's bankruptcy can be a qualifying event for some retirees.

What is the length of continued coverage?

The following table shows the length of continued coverage for various qualifying events.

Qualifying Event	Length of Coverage
Termination or reduction in hours	18 months
Disabled (as determined by the Social Security Administration) within 60 days of COBRA coverage	29 months (18 months plus 11-month extension)
Employee entitled to Medicare	36 months
Divorce or legal separation	36 months
Death of covered employee	36 months
Loss of dependent child status	36 months

What are the notification requirements?

COBRA notification requirements typically fall into the following categories:

- ◆ Notice to participants upon entering the plan. COBRA requires that covered employees and their spouses receive a notice which describes the basic principles as well as their rights and responsibilities before electing COBRA. This notice must be provided within 90 days of beginning coverage under the group plan.
- ◆ Notice from employer to plan administrator. If the employer is not the plan administrator, the employer is responsible for notifying the plan administrator of a qualifying event within

30 days of an employee's death, termination, reduction in hours, or entitlement to Medicare.

- ◆ Notice from employees or beneficiaries to administrator. COBRA requires a covered employee (or spouse) to notify the plan administrator of a qualifying event within 60 days of a divorce or legal separation or loss of dependent child status under the employer's plan.
- ◆ Notice of disability extension. Qualified beneficiaries wishing to elect the 11-month extension due to disability (as deemed by the Social Security Administration) must send the plan administrator a copy of the ruling letter from the Social Security Administration within 60 days of receipt, but before the original 18-month continuation ends. Additionally, the plan administrator must be notified within 30 days of a ruling that the individual is no longer disabled.
- ◆ Notice from administrator to beneficiaries. The administrator of the health plan must notify qualified beneficiaries of their COBRA rights within 14 days after receiving notice of any qualifying event. If an individual is not eligible for COBRA coverage, then the administrator must provide a notice detailing the reason why coverage is unavailable also within 14 days of receiving notice of a qualifying event. In the event of an early termination of COBRA coverage, the plan administrator must provide notice to the qualified beneficiary detailing the reason for the early termination of coverage and any rights the individual may have. This notice must be provided as soon as practicable following the determination of termination of coverage.

How long does an individual have to elect continuation coverage?

Once notified of their right to elect continuation coverage, employees and their qualified beneficiaries have 60 days in which to elect COBRA coverage. Individuals electing COBRA have 45 days from the date of election to make the initial premium payment. This payment must consist of the total amount due since the coverage loss date.

What are the payment requirements?

Beneficiaries are required to pay the full cost of the premium, plus up to 2% for administrative costs. Qualified beneficiaries receiving the 11-month extension for disability may be charged up to 150% of the plan's cost for coverage. The initial premium payment is due within 45 days of election. Subsequent payments are due in accordance with plan rules, but must allow a 30-day grace period.

What are employer liabilities?

An employer that violates COBRA may be subject to both civil and tax penalties. Penalties for non-compliance with COBRA include the following:

- ◆ IRS excise tax penalty of \$100 per day for each violation. This fine can be increased to \$200 for each day in which there was more than one qualified beneficiary per family.
- ◆ An ERISA penalty of \$110 per day payable to each qualified beneficiary for each day the employer was not in compliance.
- ◆ The employer can be held liable for payment of legal fees, court costs, and even for medical claims incurred by a qualified beneficiary.

Can an employer offer continuation for longer than COBRA requires?

Employers can be more generous with qualified beneficiaries than the law requires, however, they must examine contracts with insurers and possibly obtain their agreement to ensure that the proposed qualified beneficiaries will be accepted.

If an individual doesn't pay his/her COBRA premium can coverage be canceled?

COBRA regulations require plans to allow a 30-day grace period for payments. If payment is not received by the first day of the period of coverage, the plan may elect to cancel coverage until the payment is received. However, once payment is received, coverage must be reinstated retroactively. Failure to make premium payments beyond the 30-day grace period may result in termination of coverage.

What constitutes gross misconduct?

Gross misconduct has not been explicitly defined by either the IRS or the Department of Labor. However, dangerous or illegal acts committed in the workplace which result in termination of employment may constitute gross misconduct. Beyond that, the definition is unclear.

Will posting COBRA information at the work site meet the requirement to provide initial notification?

While COBRA information may be posted in the workplace, this alone is not sufficient to meet the initial notification requirements as outlined in the regulations. Both employees and their spouses must be provided with initial notification upon entering the plan or when a plan becomes subject to COBRA rules. A first class mailing of the initial notification would

meet this requirement. If the employee and spouse live at the same address, one mailing, addressed to both parties, would be sufficient. If they live at separate addresses or are covered under the plan at different times, separate notifications must be sent.

What happens if a beneficiary is not notified?

Failure to provide initial notifications may result in a qualified beneficiary being eligible for COBRA even if they fail to notify the plan administrator of a divorce, legal separation or loss of dependent child status under the plan. A Department of Labor Information Letter has indicated that these notification requirements by qualified beneficiaries apply only where the initial notification requirements of the employer were satisfied.

Who are the governing agencies?

Both the Departments of Labor and Treasury have jurisdiction over private-sector group health plans. The Department of Labor, Employee Benefits Security Administration has responsibility for the disclosure and notification Requirements of COBRA. The Internal Revenue Service, Department of the Treasury, has issued COBRA regulations pertaining to eligibility, coverage and premiums.

Where can additional information be obtained?

For additional information regarding federal COBRA guidelines, state health insurance continuation regulations or the coordination of both laws, where applicable, contact the appropriate federal agency or your state Department of Insurance. Paychex clients may contact their Client Service Representative or Human Resource Representative for more information on state or federal health insurance continuation laws.

The following chart contains a brief overview of state health insurance continuation laws in effect as of the date of this publication. The table is intended as a summary of qualifying events (some exceptions may apply) and maximum coverage (may depend on qualifying event) under state law. Additionally, the chart does not contain all information regarding such laws or detail how state regulations coordinate with federal guidelines. These regulations are applicable to the state in which the health plan originated. There may also be state regulations that require employers to allow employees to convert their plan to an individual plan. State law may have specific notice requirements.

* Where there are no specific state or federal provisions, employers should refer to their insurance carrier to see if their plan provides for continuation or conversion of coverage upon termination.

** Extended coverage under certain circumstances

State	# of Employees	Qualifying Event	Maximum Coverage
AL	*	N/A	N/A
AK	*	N/A	N/A
AZ	Employers with fewer than 20 employees should speak with their insurance carrier to discuss state regulations for continuation/conversion	N/A	N/A
AR	Less than 20	F, J	120 days
CA	2 or more	A	36 months**
CO	All plans not subject to COBRA	B, C, D, E, F, H, G	18 months
CT	1 or more	A, J	12-36 months
DE	*	N/A	N/A
DC	Less than 20	B, C	3 - 9 months
FL	All plans not subject to COBRA	A, L	18-36 months**
GA	Less than 20	J	Remainder of month in which coverage ended plus 3 months **
HI	1 or more	L	The month in which disability began plus three months or the period of time during which the employer continues to pay the employee's regular wages, whichever is longer.
ID	1 or more	K	A "reasonable" extension of not less than 12 months.
IL	2 or more	J	12 - 24 months**
IN	*	N/A	N/A
IA	2 or more	J	9 months
KS	All plans not subject to COBRA	J	18 months
KY	All plans not subject to COBRA	J	18 months**
LA	All plans not subject to COBRA	J	12 months**
ME	All plans not subject to COBRA	L	1 year from last day of work
MD	1 or more	B, C, F, H	18 months**
MA	2-19	A	18-36 months
MI	*	N/A	N/A
MN	2 or more	A	18 - 36 months**
MS	All plans not subject to COBRA	J	12 months
MO	All plans not subject to COBRA	J	9 months**
MT	*	N/A	N/A
NE	All plans not subject to COBRA	B, H	6 - 12 months
NV	Less than 20	A	18 - 36 months

State	# of Employees	Qualifying Event	Maximum Coverage
NH	All plans not subject to COBRA	A, L	18 - 36 months
NJ	All plans not subject to COBRA	A	18 - 36 months
NM	1 or more	A	18 - 36 months
NY	All plans not subject to COBRA	A	36 months
NC	All plans not subject to COBRA	J	18 months
ND	Less than 20	J	39 weeks - 36 months**
OH	1 or more	B, C, F, H	12 months
OK	1 or more	J	63 days - 6 months
OR	All plans not subject to COBRA	J	9 months
PA	All plans not subject to COBRA	A	9 months
RI	1 or more	H, L	Up to 18 months
SC	All plans not subject to COBRA	J	Portion of month in which coverage loss occurred plus 6 months.
SD	Less than 20	J	18 - 36 months
TN	1 or more	J	Portion of policy month in which event occurred plus 3-15 months.
TX	1 or more	J	9- 36 months
UT	All plans not subject to COBRA		
VT	All plans not subject to COBRA	A	18 months
VA	All plans not subject to COBRA	J	90 days
WA	*	N/A	N/A
WV	1 or more	L	18 months
WI	1 or more	J	No specific time limit but insurers may require conversion to an individual policy after 18 months
WY	All plans not subject to COBRA	J	12 months

- A. Same as COBRA
- B. Involuntary Termination of Employment
- C. Voluntary Termination of Employment
- D. Involuntary Reduction of Hours
- E. Voluntary Reduction in Hours
- F. Change in Marital Status
- G. Loss of Dependent Child Status
- H. Death of Employee
- I. Employee becomes eligible for Medicare
- J. Any loss of coverage due to termination of employment or membership or eligibility for coverage
- K. Total disability of employee
- L. Other (Continuation available only under very limited circumstances)

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