

COBRA AT A GLANCE

GENERAL COBRA INFORMATION

The Consolidated Omnibus Budget Reconciliation Act of 1985 is a federal law that requires group health plans to provide a temporary continuation of group health coverage that otherwise might be terminated. COBRA requires continuation coverage to be offered to covered employees, their spouses, former spouses and dependent children when group health coverage would otherwise be lost due to certain specific events.

EMPLOYERS SUBJECT TO COBRA

COBRA covers group health plans sponsored by an employer that employed at least 20 employees on more than 50 percent of its typical business days in the previous calendar year. Both full- and part-time employees are counted to determine whether a plan is subject to COBRA.

COBRA does not apply to plans sponsored by the federal government or by churches and certain church-related organizations. Furthermore, some states have laws similar to COBRA, including those that apply to health insurers of employers with fewer than 20 employees.

PLANS THAT MUST COMPLY WITH COBRA

Any plans that an employer establishes or maintains to provide employees or their families with medical care. The types of plans subject to COBRA include:

- Inpatient and outpatient hospital care
- Physician care
- Surgery and other major medical benefits
- Prescription drugs
- Dental and vision care

Life insurance is not considered medical care, nor are disability benefits. COBRA does not cover plans that provide only life insurance or disability benefits.

QUALIFIED BENEFICIARIES

An individual covered by a group health plan on the day before a qualifying event occurred that caused him or her to lose coverage. Only certain individuals can become qualified beneficiaries due to a qualifying event, and the type of qualifying event determines who can become a qualified beneficiary when it happens.

A qualified beneficiary must be:

- A covered employee
- The employee's spouse or former spouse, or
- The employee's dependent child

Covered employees may include:

- Any employee or former employee covered by the group health plan.
- A retired employee, the retired employee's spouse or former spouse and the retired employee's dependent children (in certain cases involving the bankruptcy of the employer sponsoring the plan).
- Any child born to or placed for adoption with a covered employee during a period of continuation coverage.
- An employer's agents, independent contractors and directors who participate in the group health plan (in some cases).

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QUALIFYING EVENTS

Events that cause an individual to lose his or her group health coverage. The type of qualifying event determines who the qualified beneficiaries are for that event and the period of time that a plan must offer continuation coverage. COBRA establishes only the minimum requirements for continuation coverage. A plan may always choose to provide longer periods of continuation coverage.

The following are qualifying events for covered employees if they cause the covered employee to lose coverage:

- Termination of the employee's employment for any reason other than gross misconduct, or
- Reduction in the number of hours of employment.

The following are qualifying events for the spouse and dependent child of a covered employee if they cause the spouse or dependent child to lose coverage:

- Covered employee becomes entitled to Medicare
- Loss of dependent status
- Divorce or legal separation of the spouse from the covered employee, or
- Death of the covered employee

COBRA CONTINUATION COVERAGE

COBRA coverage must be identical to the coverage currently available under the plan to similarly situated active employees and their families, which is usually the same coverage as before the qualifying event. Qualified beneficiaries must be given the same rights as active employees to the same benefits, choices and services that a similarly situated participant or beneficiary is currently receiving under the plan. This includes open enrollment rights.

Any change made to the plan's terms that apply to similarly situated active employees and their families will also apply to qualified beneficiaries receiving COBRA continuation coverage.

ELECTING COBRA CONTINUATION COVERAGE

Qualified beneficiaries must be given an election period of at least 60 days that starts on either the date the qualified beneficiary is furnished the election notice or the date they would lose coverage – whichever is later.

Each of the qualified beneficiaries for a qualifying event may independently elect COBRA coverage. A parent or legal guardian may elect on behalf of a minor child.

A qualified beneficiary may waive COBRA coverage during the election period but must be permitted later to revoke their waiver of coverage and to elect continuation coverage as long as they do so during the election period.

DURATION OF COBRA CONTINUATION COVERAGE

The length of time depends on the type of qualifying event that gave rise to the COBRA rights. A plan, however, may provide longer periods of coverage beyond the maximum period required by law.

- When the qualifying event is the covered employee's termination of employment or reduction in hours of employment, qualified beneficiaries are entitled to 18 months of continuation coverage.
- For spouse and dependent qualifying events, qualified beneficiaries must be provided 36 months of continuation coverage.
- When the qualifying event is the end of employment or reduction of the employee's hours, and the employee became entitled to Medicare less than 18 months before the qualifying event, COBRA coverage for the employee's spouse and dependents can last until 36 months after the date the employee becomes entitled to Medicare.

EARLY TERMINATION OF COBRA

A group health plan may terminate coverage earlier than the end of the maximum period for any of the following reasons:

- Premiums are not paid in full on a timely basis.
- The employer ceases to maintain any group health plan.
- A qualified beneficiary begins coverage under another group health plan after electing continuation coverage.
- A qualified beneficiary becomes entitled to Medicare benefits after electing continuation coverage.
- A qualified beneficiary engages in conduct that would justify the plan in terminating coverage of a similarly situated participant or beneficiary not receiving continuation coverage (such as fraud).

If continuation coverage is terminated early, the plan must provide the qualified beneficiary with an early termination notice.

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← COBRA COVERAGE EXTENSION

Qualified beneficiaries may become eligible for an extension of the maximum time period in two circumstances. The first is when a qualified beneficiary is disabled. The second is when a second qualifying event occurs.

Second Qualifying Event: A dependent may become entitled to an 18-month extension (giving a total maximum period of 36 months of continuation coverage) if they experience a second qualifying event that is the death of a covered employee, the divorce or legal separation of a covered employee and spouse, a covered employee's becoming entitled to Medicare (in certain circumstances) or a loss of dependent child status under the plan.

The second event can be a second qualifying event only if it would have caused the qualified beneficiary to lose coverage under the plan in the absence of the first qualifying event. If a second qualifying event occurs, the qualified beneficiary will need to notify the plan.

💰 PAYING FOR COBRA CONTINUATION COVERAGE

The amount charged to qualified beneficiaries cannot exceed 102 percent of the cost to the plan for similarly situated individuals covered under the plan who have not incurred a qualifying event. In determining COBRA premiums, the plan can include the costs paid by employees and the employer, plus an additional 2 percent for administrative costs.

For qualified beneficiaries receiving the 11-month disability extension, the COBRA premium for those additional months may be increased to 150 percent of the plan's total cost of coverage for similarly situated individuals.

Qualified beneficiaries are required to make an initial premium payment within 45 days after the date of the COBRA election, which is the date they mail in their election form. Failure to make any payment within that period of time will cause loss of all COBRA rights. The plan can set premium due dates for successive periods of coverage, but it must give the option to make monthly payments, and it must give a 30-day grace period for payment of any premium.

If the amount of a payment made to the plan is incorrect but is no greater than the lesser of \$50 or 10 percent of the required amount, the plan is required to notify the qualified beneficiary of the deficiency and grant a reasonable period to pay the difference. The plan is not obligated to send monthly premium notices.

♿ DISABILITY

If any one of the qualified beneficiaries in the family is disabled and meets certain requirements, all of the qualified beneficiaries receiving continuation coverage due to a single qualifying event are entitled to an 11-month extension of the maximum period of continuation coverage (for a total maximum period of 29 months of continuation coverage). The plan can charge qualified beneficiaries an increased premium, up to 150 percent of the cost of coverage, during the 11-month disability extension.

The requirements are:

1. That the Social Security Administration (SSA) determines that the disabled qualified beneficiary is disabled before the 60th day of continuation coverage.
2. That the disability continues during the rest of the 18-month period of continuation coverage.

The disabled qualified beneficiary or another person on his or her behalf also must notify the plan of the SSA determination before the end of the original 18-month continuation period. The plan can set a time limit for providing this notice of disability, but the time limit cannot be shorter than 60 days, starting from the latest of: (1) the date on which SSA issues the disability determination; (2) the date on which the qualifying event occurs; (3) the date on which the qualified beneficiary loses (or would lose) coverage under the plan as a result of the qualifying event; or (4) the date on which the qualified beneficiary is informed, through the furnishing of the SPD or the COBRA general notice, of the responsibility to notify the plan and the procedures for doing so.

The right to the disability extension may be terminated if the SSA determines that the disabled qualified beneficiary is no longer disabled.

☰ QUALIFIED BENEFICIARY NOTIFICATION REQUIREMENTS

Under COBRA, covered spouses and dependent children may continue their plan coverage for a limited time when they would otherwise lose coverage due to a particular event, such as divorce (or legal separation) or loss of dependent status. A covered employee's spouse who would lose coverage due to a divorce may elect continuation coverage under the plan for a maximum of 36 months. A qualified beneficiary must notify the plan administrator of a qualifying event within 60 days after divorce or legal separation. After being notified of a divorce, the plan administrator must give notice, generally within 14 days, to the qualified beneficiary of the right to elect COBRA continuation coverage.

The Cheat Sheet was created by using information from the Department of Labor and is designed to be a quick reference to the rules and regulations governing COBRA continuation. COBRA regulations are extensive and this cheat sheet does not contain all of the COBRA laws.