

What employers need to know about COBRA continuation

What is COBRA?

COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) is a federal law that requires employers with 20 or more employees who offer healthcare benefits to offer the option of continuing this coverage to individuals who would otherwise lose their benefits due to termination of employment, reduction in hours, or certain other events. Individual states may also have COBRA-like laws that apply.

What employers must provide COBRA benefits?

Any employer that has 20 or more employees and offers a group health plan must provide COBRA benefits to qualified beneficiaries. When determining the employee count, employers must include full-time, part-time, and any common law employees. They may also include any foreign businesses that are under the same control. If an employer crosses the COBRA count threshold, that employer will need to offer COBRA for one year, even if during that year, they fall below 20 employees.

Churches and federal government plans are exempt from offering COBRA.

What notices are required?

By law, COBRA requires communication to the employee of their right to continue benefits when a qualifying event occurs. Communication requirements include the following notifications:

- **Initial/General Notice:** Gives general COBRA rights and obligations to each covered employee and their spouse who become covered under the group health plan.
- **COBRA Qualifying Event & Election Notice:** Gives information about COBRA rights, how to elect coverage, COBRA premiums, and consequences of non-payment. The Department of Labor (DOL) has provided a model COBRA election which is revised to include the healthcare exchange coverage options available under healthcare reform.

What is the COBRA timeline to send notices?

- **30 days:** The employer has 30 days to notify the plan administrator of a COBRA qualifying event.
- **14 days:** The plan administrator has 14 days to send the Qualifying Event Letter and Election notice.
- **60 days:** The COBRA-eligible participant(s) have 60 days to enroll in coverage. If the COBRA-eligible participant does not elect coverage within 60 days after the notification, they are no longer eligible to elect.
- **45 days:** The COBRA-eligible participant then has 45 days from the date they elect coverage to pay for their first month of coverage and any other previous months.
- **90 days:** The employer has 90 days to send the initial General Notice to newly enrolled COBRA participants.

Which benefits are covered?

The following types of plans generally need to be offered to employees when COBRA is triggered:

- Healthcare plans (HMOs, PPOs, HDHPs, self-insured plans, etc.)
- Flexible spending accounts (FSAs)
- Dental plans
- Vision plans
- Hearing plans
- Prescription drug plans
- Alcohol and substance abuse plans
- Employee Assistance Programs (EAPs) that offer mental healthcare
- Health Reimbursement Arrangements (HRAs)

Life insurance, disability insurance, retirement plans, and vacation plans are not COBRA eligible.

Who is eligible for COBRA?

A qualified beneficiary is anyone who is covered under the group health plan on the day before a qualifying event that causes loss of coverage. Each qualified beneficiary has an independent right to elect to continue COBRA coverage and participate in open enrollment and can add eligible family members under HIPAA Special Enrollment Rights.

Covered individuals can also be eligible for COBRA because they are covered by a group health plan, but not eligible to be a qualified beneficiary on their own and do not have an independent right to elect COBRA. Covered individuals do not have COBRA rights and do not have HIPAA special enrollment rights.

Which events trigger COBRA?

Events that trigger COBRA coverage are known as qualifying events. Qualifying events are:

- Voluntary or involuntary termination of employment, unless it is for gross misconduct
- Reduction in hours of employment (e.g., from full time to part time)
- Divorce or legal separation from an employee
- Entitlement to Medicare
- Dependent's change in status
- Business's bankruptcy
- Employee death

Often-overlooked triggers:

- Active military duty when the employer does not voluntarily maintain health coverage
- Failure to return to work at the end of family and medical leave

How long does COBRA coverage last?

The length of COBRA coverage depends upon the type of event and who the qualified beneficiary is.

- **18 months:** For the employee and covered dependents in the case of termination of employment or reduction in hours.
- **29 months:** For the employee and covered dependents in the case of disability in the first 60 days of COBRA enrollment.
- **36 months:** For the ex-spouse in the case of a divorce, remaining living dependents in the case of employee death, or child aging out of coverage.

Cost of COBRA coverage and payments

The employee pays the full cost of the insurance premiums.

- The law allows the employer to charge 102% of the premium. The 2% is to cover administrative costs.
- When an employee gets extended COBRA coverage due to disability, the law allows the employer to charge 150% of the premium for months 18 through 29.

Federal law states that COBRA coverage can be terminated if premium payments are late. According to the law, payment of any premium is timely if it is made within 30 days after the due date, typically the first of the month.

Complying with state COBRA-like laws

Individual states may also have COBRA-like laws concerning the continuation of benefits. To find out more about your state's laws regarding continuation of coverage, contact your state labor agency or your legal counsel.

Outsourcing COBRA administration

Complying with COBRA can become a burden for an employer. The complicated issues involved, particularly if you have more than a few employees, are a very good reason to consider outsourcing your administration duties. A company such as Omnify, powered by Union Bank & Trust, can help with the administrative burden when it comes to COBRA notices, managing payments, and COBRA participant timelines.

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