



*Providing Human Resource Risk Management Services  
for Insurance Agencies and Their Clients*

*Abilities Education Technologies, Inc.*

P.O. Box 217, Uwchland, PA 19480-0217

Phone: 610-476-6326 Fax: 610-469-6842

## **COBRA OVERVIEW**

### **HEALTH BENEFITS UNDER THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA)**

#### **Introduction**

**Health Insurance programs allow workers and their families to take care of essential medical needs. These programs can be one of the most important benefits provided by an employer.**

There was a time when group health coverage was at risk when a worker lost his job, changed employment or got divorced. That changed in 1986 with the passage of health benefit provisions in the Consolidated Omnibus Budget Reconciliation Act (COBRA). Now, terminated employees or their families who may lose coverage because of termination of employment, death, divorce or other life events may be able to continue the coverage under the employer's group health plan for themselves and their families for limited periods of time.

If you are eligible for COBRA coverage, your health plan must give you a notice stating your right to choose to continue coverage under the plan. You will have at least sixty (60) days to choose COBRA coverage or lose all rights to benefits. Once COBRA coverage is chosen, you may be required to pay for the coverage.

#### **What is the Continuation Health Law?**

COBRA contains provisions giving certain former employees, retirees, spouses, former spouses and dependent children the right to temporary continuation of health coverage at group rates. This coverage, however, is only available when coverage is lost due to certain specific events.

The law generally covers group health plans maintained by employers with twenty (20) or more employees in the prior year. It applies to plans in the private sector and those sponsored by state and local governments. The law does not, however, apply to plans sponsored by the Federal government and certain church-related organizations.

Life insurance, however, is not covered under COBRA.

## Who is Entitled to Benefits?

### Plan Coverage

Group health plans for employers with twenty (20) or more employees on more than fifty (50) percent of its typical business days in the previous calendar year are subject to COBRA. Both full and part-time employees are counted to determine whether a plan is subject to COBRA. Each part-time employee counts as a fraction of an employee, with the fraction equal to the number of hours that the part-time employee worked divided by the hours an employee must work to be considered full-time.

### Qualified Beneficiaries

A qualified beneficiary generally is an individual covered by a group health plan on the day before a qualifying event who is either an employee, the employee's spouse, or an employee's dependent child. In certain cases, a retired employee, the retired employee's spouse, and the retired employee's dependent children may be qualified beneficiaries. In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary. Agents, independent contractors and directors who participate in the group health plan may also be qualified beneficiaries.

### Qualifying Events

"Qualifying events" are certain events that would cause an individual to lose health coverage. The type of qualifying event will determine who the qualified beneficiaries are and the amount of time that a plan must offer the health coverage to them under COBRA. A plan, at its discretion, may provide longer periods of continuation coverage.

The qualifying events for employees are:

- Voluntary or involuntary termination of employment for reasons other than "gross misconduct"
- Reduction in the number of hours of employment

The qualifying events for spouses are:

- Voluntary or involuntary termination of the covered employee's employment for any reason other than "gross misconduct"
- Reduction in the hours worked by the covered employee
- Covered employee's becoming entitled to Medicare

- Divorce or legal separation of the covered employee
- Death of the covered employee

The qualifying events for dependent children are the same as for the spouse with one addition:

- Loss of “dependent child” status under the plan rules

### Periods of Qualifying Events

Termination  
 Reduced hours  
 Employee enrolled in Medicare  
 Divorce or legal separation  
 Death of covered employee  
 Loss of “dependent child” status

### Coverage<sup>1</sup>

<b>Beneficiary</b>	<b>Coverage</b>
Employee	18 months <sup>2</sup>
Spouse	
Dependent Child	
Spouse	36 months
Dependent Child	
Dependent Child	36 months

### **Your Rights: Notice and Election Procedures**

COBRA outlines how employees and family members may elect continuation coverage. It also requires employers and plans to notify qualified beneficiaries.

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<sup>1</sup> The Omnibus Budget Reconciliation Act of 1986 contained amendments to the Internal Revenue Code and ERISA affecting retirees and family members who receive post-retirement health coverage from employers involved in bankruptcy proceedings begun on or after July 1, 1986. This booklet does not address that group.

<sup>2</sup> In the case of individuals who are disabled within the meaning of the “Social Security Act”, special rules may apply to extend coverage an additional 11 months to that individual and other individuals who are qualified beneficiaries with respect to the same qualifying event. (See page 13 of this publication for more information.)

## **Notice Procedures**

General COBRA rights must be described in the summary plan description (SPD) that all participants receive.

### **Initial Notices**

Generally, an initial notice describing COBRA rights must be furnished to covered employees and their spouses at the time coverage under the plan commences.

### **Other Notices**

Employers must notify plan administrators of a qualifying event within thirty (30) days after an employee's death, termination, reduced hours of employment or entitlement to Medicare.

A qualified beneficiary must notify the plan administrator of a qualifying event within sixty (60) days after divorce or legal separation or a child's ceasing to be covered as a dependent under plan rules.

Plan administrators, upon receiving notice of a qualifying event, must provide an election notice to the qualified beneficiaries of their right to elect COBRA coverage. The notice must be provided in person or by first-class mail within fourteen (14) days after the plan administrator receives notice that a qualifying event has occurred.

### **Election**

Qualified beneficiaries must be given an election period during which each qualified beneficiary may choose whether to elect COBRA coverage. Qualified beneficiaries must be given at least sixty (60) days for the election. This period is measured from the later of the coverage loss date or the date the COBRA election notice is provided. COBRA coverage is retroactive if elected and paid for by the qualified beneficiary.

Each qualified beneficiary may independently elect COBRA coverage. A covered employee or the covered employee's spouse, however, may elect COBRA coverage on behalf of all other qualified beneficiaries. A parent or legal guardian may elect on behalf of a minor child.

If a qualified beneficiary waives COBRA coverage during the election period, he or she may revoke the waiver of coverage before the end of the election period. A beneficiary may then elect COBRA coverage. Then, the plan need only provide continuation coverage beginning on the date the waiver is revoked.

### **Duration of Coverage**

Coverage begins on the date that coverage would otherwise have been lost by reason of a qualifying event and will end at the end of the maximum period. It may end earlier if:

- Premiums are not paid on a timely basis
- The employer ceases to maintain any group health plan
- After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of such beneficiary. However, if other group health coverage is obtained prior to the COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.
- After the COBRA election, a beneficiary becomes entitled to Medicare benefits. However, if Medicare is obtained prior to COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.

### **Paying for COBRA Coverage**

If premiums are not paid by the first day of the period of coverage, the plan has the option to cancel coverage until payment is received and then reinstate the coverage retroactively to the beginning of the period of coverage.

### **Coordination with Other Benefits**

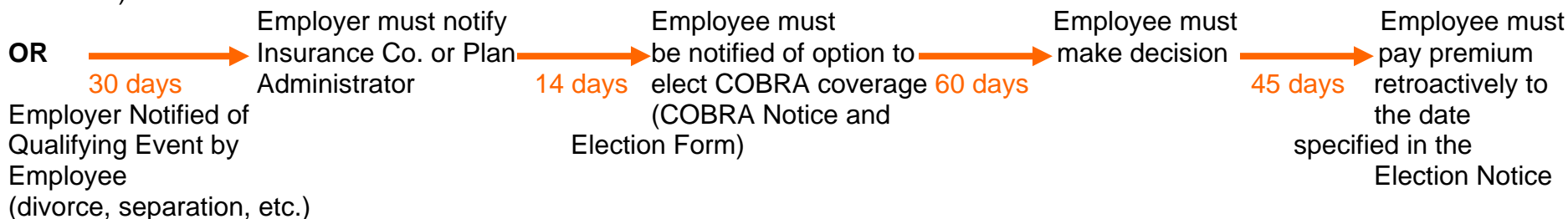
Coverage provided under the FMLA is not COBRA coverage, and FMLA leave is not a qualifying event under COBRA. A COBRA qualifying event may occur, however, when an employer's obligation to maintain health benefits under FMLA ceases, such as when an employee notifies an employer of his or her intent not to return to work.

## COBRA: MAINTENANCE OF GROUP HEALTH BENEFITS

- Eligible beneficiaries are responsible for GROUP HEALTH premium payments from the date they elect COBRA coverage.
- Employers must give eligible beneficiaries up to 45 days to make the initial premium payment after the beneficiary elects to receive COBRA benefits
- Employers may cancel group health benefits if the beneficiary is more than 30 days late with ongoing premium payments IF the employee has been notified at least 15 days in advance in writing that the insurance will be cancelled for lack of timely payment

### COBRA TIMELINE

Employee Terminated  
(or died, reduced hours of  
employment, or entitled to  
Medicare)



- Once an employer is notified of a qualifying event, he has up to 44 days to send out the Election Notice to the employee.
- After the employee receives the notice, the employee has up to 60 days to decide if they would like to elect COBRA coverage.
- If the employee elects COBRA coverage, they have an additional 45 days to pay the premium. The employee must pay retroactively to the date specified in the Election Notice sent by the Employer.
- The employer is NOT required to pay the premiums after the Election Notice is sent to the employee.
- Since COBRA coverage is retroactive to the date specified in the Election Notice by the employer, the employee is covered by COBRA during the 60-day decision period IF he has chosen to elect COBRA coverage. The employee must pay the premiums retroactively to the specified date.
- If the employee chooses NOT to elect COBRA coverage, and if the employer has decided to end health coverage on a certain date, the employee will not be covered by any health insurance after that date.
- It is up to the employer to decide what date they choose to end health insurance coverage – it may be the day the employee is terminated from employment, or as a courtesy, the employer may choose to end coverage at a later date. The date must be provided in the Election Notice.

**For information or assistance, contact: Dr. Mel Cooksey at (610) 476-6326 or at [mel@aethr.com](mailto:mel@aethr.com) or visit our website at [www.aethr.com](http://www.aethr.com)**  
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**PLEASE NOTE**

Source: U.S. Dept. of Labor; Pension and Welfare Benefits Administration

Please refer to the original document to ensure accuracy.

Information contained is designed and intended to provide accurate and authoritative information in regard to the subject matter covered. If legal advice is required, the services of a competent attorney should be obtained.