

COBRA

What it is, How it works, Why it's important

The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires most group health plans to allow individuals who lose health insurance coverage to continue their coverage under certain circumstances. Fulfilling COBRA's requirements isn't difficult, but there are some details you should know. In this paper you will find the basics. There are lots of details and exceptions, so be sure to look the Department of Labor's website¹ to get more information.

Who is covered?

First, it is important to know if your plan is subject to COBRA. In general, private-sector group health plans with at least 20 employees, or plans sponsored by a state or local government, are subject to COBRA and must offer health insurance continuation to certain people. Those people are **qualified beneficiaries** who have experienced a **qualifying event**.



Who is a qualified beneficiary?

COBRA defines this as someone who was covered by a group health plan on the day before a qualifying event occurred, and who is an employee, the employee's spouse or former spouse, or the employee's dependent child.

A **qualifying event** results in the loss of coverage under the plan. The length of COBRA continuation coverage and who is eligible are determined by the type of qualifying event. For example, the termination of a covered employee's employment for any reason except gross misconduct or a reduction in the covered employee's hours of employment are qualifying events for the covered employee, if these events result in the loss of coverage. The same events would be qualifying for the covered employee's spouse or dependent child, if the spouse or dependent child loses coverage because of them.

A covered employee's spouse or dependent child has also experienced a qualifying event if he or she loses coverage because the covered employee becomes eligible

for Medicare, because of a legal separation or divorce, or because of the death of the covered employee. A dependent child of a covered employee who loses coverage because he or she loses dependent child status under the Affordable Care Act (ACA) has also experienced a qualifying event, and must therefore be offered COBRA continuation coverage.

How much and how long?

The coverage offered under COBRA must be identical to that offered to others in the plan. Usually, this means the coverage will be the same as what the individual had the day before the qualifying event occurred. The benefits, choices and services, including co-pays, deductibles and coverage limits must be the same.

Depending upon the type of qualifying event, coverage may last 18 or 36 months, although plans may provide continuation of coverage for a longer period, if they so choose. At a minimum, an employee whose qualifying event is employment termination or reduction in hours must be allowed 18 months of coverage continuation.

¹ <http://www.dol.gov/ebsa/publications/cobraemployer.html#footnotes>

For other qualifying events, the COBRA coverage continuation period is a minimum of 36 months.

However, there are reasons the COBRA continuation coverage could be discontinued early. For example, if the employee does not pay premiums on time, if the employer stops offering any group health plan, or if a COBRA beneficiary becomes eligible for Medicare benefits, the coverage can terminate. There are more situations under which an employer may cease benefits; details are on the DOL's website.

Employers can choose to provide COBRA continuation coverage at no cost or at a reduced cost. They may choose to provide the coverage and have the COBRA beneficiary pay the full premium, including the employer and the employee portions. They may also charge for the administration of the program, as long as they don't charge more than 2% of the premium each month. So, the beneficiary cannot be charged more than 102% of the premium for someone whose situation is similar but who has not undergone a qualifying event.

Notice Requirements

If you are required to provide COBRA coverage, you must also let employees know about it. First, you should notify them in the Summary Plan Description (SPD) covering your health insurance plan. You should also notify

employees and spouses who become covered by the plan of their COBRA rights, within 90 days of coverage. The SPD can meet this requirement as long as you provide it within this timeframe. The notice should include the plan's name, contact information, description of coverage, and other pertinent information that will make it easier for someone to understand and exercise their COBRA benefits.

Covered employees or qualified beneficiaries are responsible to notify the plan if they become eligible for benefits because of a divorce, a legal separation, or the loss of dependent status for a child. On the other hand, the employer is required to notify the plan for other qualifying events, like termination or reduction of working hours, a death, or company bankruptcy. It is important for group health plans to have procedures for notification about qualifying events. The timing and procedures are described in detail on the DOL website.

Another important notice is the COBRA election notice, which provides the qualified beneficiary with information about their rights and how to elect benefits. Other notices include Notice of Unavailability of Continuation Coverage, and Notice of Early Termination of Continuation Coverage. Multiemployer plans have special COBRA rules, which can be found on the DOL website.

If you have questions about COBRA continuation coverage and how it applies to your plan, contact us. USEBSG consultants work hard to stay abreast of COBRA requirements, and are pleased to help you understand and comply with them. You may contact us at info@usebsg.com. We're here to help.