

PERSONNEL NOTEBOOK

For Your Most Important Resource

COBRA

What, Who, Why, When, and How

What is COBRA?

COBRA, the *Consolidated Omnibus Budget Reconciliation Act* is a federal law that allows employees who are covered by their employer's health insurance plans to continue some of that health insurance coverage at the employee's expense if they leave the company. The employee who so chooses must pay whatever premium he or she has been paying in addition to what the employer has been paying plus a service charge of 2 percent.

COBRA not only covers the employee, but also can include the employee's spouse, dependent children, and even former spouses and former stepchildren. And, leaving the company is not the only event that triggers COBRA. Almost anything that causes the employee to lose health coverage may as well. If an employee's work hours are reduced or the job classification changes and these events cause the employee to no longer be covered by the company's health insurance, then the employee, the spouse, and dependents may take advantage of COBRA.

Who is covered?

Employers who provide group health plans and have 20 or more employees on more than 50 percent of its business days must comply with and provide the benefits of COBRA.

Employees who are covered by those plans, and may be about to lose that coverage, are eligible candidates for COBRA.

Spouses, ex-spouses, dependent children, and children from former marriages who are covered by the employee's health insurance are also eligible candidates.

Each of these groups is considered to be "qualified beneficiaries," and, in the event that they are about to lose health care coverage provided by an employee, they are entitled to use COBRA.

Why use it; why not?

For most people, the employer has long been the No.1 provider of health care in the nation. Employees have often chosen to stay with their employers rather than lose their health coverage. So, COBRA was created to allow employees an opportunity to continue that coverage.

Employees elect to use COBRA because the premium payments for the group health plan are so much less expensive than for a private health plan.

On a national level, however, a very low percentage of employees choose to elect COBRA because they have never paid health insurance premiums and when they discover

what the total cost of the coverage is, they decide not to accept it.

When does COBRA kick in?

Any occurrence that results in the loss of health care coverage should be cause for considering the applicability of COBRA. Such occurrences are called “qualifying events.” However, the following categories are listed in the act.

For employees: If your hours of employment are reduced or your employment ends for any reason, other than your gross misconduct, that results in the loss of coverage, then COBRA applies.

For spouses:

- If your spouse dies
- His/her hours are reduced
- His/her employment ends for any reason other than gross misconduct
- He/she becomes eligible for Medicare
- You become legally divorced or legally separated

Dependent children:

- The parent-employee dies
- The parent-employee’s hours of employment are reduced
- The parent-employee’s employment ends for any reason other than misconduct.
- The parent-employee becomes eligible for Medicare benefits
- The parents become divorced or legally separated
- The child stops being eligible for coverage under the plan as a “dependent child”

In the rare event that retiree health coverage is provided by a company that files bankruptcy, the retiree and qualified dependents become qualified for COBRA.

How does COBRA work?

A qualifying company must make employees aware of the availability of COBRA. This is accomplished by at least two ways.

- Include information about COBRA in your employee handbook, ideally wherever you list health benefits (sample follows).
- Post the “General Notice” about COBRA benefits wherever you post your required labor posters (sample follows).

Then, when an employee notifies the company of a qualifying event, or the company is made aware of or is knowledgeable of a qualifying event, the company must provide notice to the employee of his/her COBRA rights and offer him/her the opportunity to sign up for health care coverage continuation. This notice is called the “Election Notice” (see HR Forms on this Web site).

The company’s plan administrator has 14 days to provide the employee with the Election Notice. The employee then has 60 days in which to decide whether or not to accept. He/she then has 45 within which to pay the first premium.

If a company is newly becoming compliant to COBRA, the first steps are to:

- Review all the requirements and procedures with your health care insurance provider. They will be (or they will assign) the “Plan Administrator,” who will be responsible for carrying out all the requirements of COBRA.
- Inform employees by posting the “General Notice.”
- Add the COBRA notice to your employee handbook.

On the following pages you will find:

- A sample statement for your employee handbook
- An overview of the COBRA notice requirements
- The “General Notice”

Sample policy

COBRA

There are specific events that may cause you to lose some of the health care benefits or may result in the absence of coverage that you and/or your dependents may receive through the company. These ‘qualifying events’ may include a divorce, legal separation, adoption of a child, or ending your employment with the company.

Upon the occurrence of such a ‘qualifying event,’ you may be eligible for an 18-month extension of those benefits at your own expense.

In addition, if another qualifying event should occur during that 18-month period, you may be eligible for an additional 18 months (36 months total).

You and your identified dependents/beneficiaries will be notified, in writing, if we are made aware of a qualifying event that may cause the loss of that coverage.

If you or your dependents then wish to continue coverage at your own expense, you must notify us, in writing, of your intention to do so within 60 days.

Bill Cook

Human Resource Associates

Have An Employment Question?

E-mail: wcook62@comcast.net

Note: For a copy of the “Election Notice” to be sent to a qualifying employee, visit the “HR Forms” section on this Web site.

Summary of Notice Requirements

- 1 General Notice of COBRA rights to employees and covered beneficiaries. (Within 90 days of coverage)
- 2 Employee must notify Plan Administrator of a Qualifying Event (See below) (Within 60 days) and of a disability. (Within 30 days)
- 3 Company must notify Plan Administrator (if not self insured) of any Qualifying Event. (Within 30 days)
- 4 After receiving notice of a Qualifying Event, the Plan Administrator must provide notice to employee of his/her right to elect continuation of benefits (Election Notice). (Within 14 days)
- 5 Plan Administrator must send notice to employee of “Unavailability of Coverage” (ineligible), if applicable. (Within 14 days)
- 6 Plan Administrator must give notice of coverage “Termination” to employee if earlier than maximum time period allowed. (Must do as soon as practical)

Qualifying Events

Reason for Losing Coverage	Length of Coverage Allowed
1. Termination of employment	18 months If individual becomes disabled within 60 days, up to 29 months
2. Reduction of hours	18 months If individual becomes disabled within 60 days, up to 29 months
3. Divorce	36 months for covered dependents
4. Death	36 months for covered dependents
5. Person losing dependent status because of age	36 months
6. Employee becomes entitled to Medicare	36 months for covered dependents
7. Retirement	Retired employee of a company filing bankruptcy can continue coverage until death. Spouse for an additional 36 months
8. Military Service	24 months

MODEL (For use by single-employer group health plans)

GENERAL NOTICE of COBRA CONTINUATION of COVERAGE RIGHTS

****CONTINUATION COVERAGE RIGHTS UNDER COBRA****

Introduction

You are receiving this notice because you have recently become covered under a group health plan (the Plan). This notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan. **This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it.**

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you when you would otherwise lose your group health coverage. It can also become available to other members of your family who are covered under the Plan when they would otherwise lose their group health coverage. For additional information about your rights and obligations under the Plan and under federal law, you should review the Plan's Summary Plan Description or contact the Plan Administrator.

What is COBRA Continuation Coverage?

COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a "qualifying event." Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage [*choose and enter appropriate information: must pay or are not required to pay*] for COBRA continuation coverage.

If you are an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because either one of the following qualifying events happens:

- Your hours of employment are reduced, or
- Your employment ends for any reason other than your gross misconduct.

If you are the spouse of an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because any of the following qualifying events happens:

- Your spouse dies;
- Your spouse's hours of employment are reduced;
- Your spouse's employment ends for any reason other than his or her gross misconduct;

- Your spouse becomes entitled to Medicare benefits (under Part A, Part B, or both); or
- You become divorced or legally separated from your spouse.

Your dependent children will become qualified beneficiaries if they lose coverage under the Plan because any of the following qualifying events happens:

- The parent-employee dies;
- The parent-employee's hours of employment are reduced;
- The parent-employee's employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes entitled to Medicare benefits (Part A, Part B, or both);
- The parents become divorced or legally separated; or
- The child stops being eligible for coverage under the plan as a "dependent child."

When is COBRA Coverage Available?

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction of hours of employment, death of the employee, [*add if Plan provides retiree health coverage: commencement of a proceeding in bankruptcy with respect to the employer,*] or the employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), the employer must notify the Plan Administrator of the qualifying event.

You Must Give Notice of Some Qualifying Events

For the other qualifying events (*divorce or legal separation* of the employee and spouse or a *dependent child's losing eligibility for coverage* as a dependent child), you must notify the Plan Administrator within 60 days [*or enter longer period permitted under the terms of the Plan*] after the qualifying event occurs. You must provide this notice to: [*Enter name of appropriate party*]. [*Add description of any additional Plan procedures for this notice, including a description of any required information or documentation.*]

How is COBRA Coverage Provided?

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children.

COBRA continuation coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, the employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), your divorce or legal separation, or a dependent child's losing eligibility as a dependent child, COBRA continuation coverage lasts for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare 8 months before the date on which his employment terminates, COBRA continuation coverage for his spouse and children can

last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus 8 months). Otherwise, when the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA continuation coverage generally lasts for only up to a total of 18 months. There are two ways in which this 18-month period of COBRA continuation coverage can be extended.

Disability extension of 18-month period of continuation coverage

If you or anyone in your family covered under the Plan is determined by the Social Security Administration to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to receive up to an additional 11 months of COBRA continuation coverage, for a total maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. *[Add description of any additional Plan procedures for this notice, including a description of any required information or documentation, the name of the appropriate party to whom notice must be sent, and the time period for giving notice.]*

Second qualifying event extension of 18-month period of continuation coverage

If your family experiences another qualifying event while receiving 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if notice of the second qualifying event is properly given to the Plan. This extension may be available to the spouse and any dependent children receiving continuation coverage if the employee or former employee dies, becomes entitled to Medicare benefits (under Part A, Part B, or both), or gets divorced or legally separated, or if the dependent child stops being eligible under the Plan as a dependent child, but only if the event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.

If You Have Questions

Questions concerning your Plan or your COBRA continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA Web site at dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's Web site.)

Keep Your Plan Informed of Address Changes

In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

Plan Contact Information