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COBRA Coverage: Health Care During Transitional Periods

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What is COBRA?

The term "COBRA" is commonly used to refer to certain provisions of Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986. This law provides an opportunity for employees and their dependents who have been covered by an employer-sponsored health insurance plan to continue coverage under circumstances where such coverage might otherwise have been terminated. The covered employee is entitled to COBRA coverage only in cases of termination or reduction in hours. In addition, there are several situations in which an employee's spouse and dependent children may be eligible for COBRA benefits. The duration of COBRA coverage is limited and depends on the reason why existing coverage is being terminated.

COBRA can be an invaluable resource, particularly for those who find themselves without health insurance due to circumstances beyond their control (e.g., layoff or reduction in working hours). Because individual health insurance is generally much more expensive than comparable group insurance , many of these individuals might otherwise be forced to go without health insurance. This can be a dangerous gamble. COBRA provides a way to retain health insurance coverage at a reasonable rate.

Are all employers subject to COBRA requirements?

COBRA requirements apply only to employers who have 20 or more employees on at least 50 percent of working days during the previous calendar year and who provide an employer-sponsored group health insurance plan. COBRA requirements also apply to state and local governments (but not the federal government). Employers who fit this description are required to offer continuation of coverage to employees and their dependents under the circumstances described in the following.

Who is eligible for COBRA benefits?

To be eligible for COBRA benefits, you must be a "qualified beneficiary." A qualified beneficiary is any individual who is covered under the group health insurance plan as of the day before a qualifying event and who fits into one of the following three categories:

- Employees and their spouses and dependent children who have lost employment-based health insurance benefits due to a change in their employment status
- Divorcees, widows, and their dependent children who have lost employment-based health insurance benefits as a result of divorce or the death of the covered spouse
- Spouses and dependent children who have lost employment-based health insurance benefits because the covered family member has become eligible for Medicare benefits, while the spouse remains ineligible

What are the "qualifying events" that trigger COBRA eligibility?

Any of the following events causing a loss of health insurance coverage will trigger COBRA eligibility for qualified beneficiaries:

Termination of employment or reduction in hours

The covered employee and other qualified beneficiaries become eligible for COBRA benefits if the employee's employment is terminated. This is true whether the termination is voluntary or involuntary, unless the reason for termination is "gross misconduct" on the part of the employee. The covered employee and other qualified beneficiaries also become eligible for COBRA coverage if the employee experiences a reduction in working hours that results in a loss of coverage.

Example(s): *Willy B. Sick's employer reduces Willy's hours as part of a companywide cutback, changing Willy's status from full-time to part-time. If Willy was covered under an employer-sponsored health insurance plan as a full-time employee but loses this coverage as a result of his new part-time status, Willy would be eligible for COBRA benefits.*

Death

A covered employee's dependents become eligible for COBRA benefits if the covered employee dies.

Divorce or legal separation

If a spouse or dependent child loses health-care coverage as a result of divorce or legal separation from the covered employee, these dependents become eligible for coverage under COBRA.

Eligibility for Medicare benefits

Group health coverage is terminated if the covered employee's condition qualifies him or her for Medicare benefits. Medicare benefits do not extend to the covered employee's spouse and dependent children, so the spouse and any dependent children become eligible for coverage under COBRA.

Loss of dependent child status

If a child loses coverage because he or she no longer fits the definition of "dependent child" under the terms of the employer's health insurance plan, the child becomes eligible for coverage under COBRA. This most often occurs because the child reaches the age of majority, but it may also be the result of emancipation. In other words, the child is no longer a dependent and thus cannot be covered under a parent's health insurance.

How long does COBRA coverage continue?

COBRA coverage begins on the day the qualifying event occurs and continues for up to 18 months in the case of termination of employment or reduction in hours or up to 36 months for any other qualifying event. COBRA coverage may expire before the end of this 18- or 36-month period if any of the following events occur:

- The employer terminates the employer-sponsored group health insurance plan for all employees.
- Coverage lapses due to nonpayment of the premium.
- A qualified beneficiary becomes eligible for Medicare benefits.
- A qualified beneficiary becomes eligible as an employee under another group health plan.
- Coverage is obtained under another group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition. The occurrence of any of these events during the 18- or 36-month COBRA coverage period terminates COBRA eligibility immediately.

If you are eligible, how do you decide whether to accept COBRA coverage?

As a general rule, you should accept COBRA coverage if you are eligible and you don't have other medical coverage. It can be very dangerous to go without health insurance coverage, even for a short time. COBRA coverage may cost more than you were previously paying, but this is far better than being uninsured.

Keep in mind that you should begin to look for other coverage as soon as possible. COBRA only covers you for a limited period of time. If your health deteriorates while you are on COBRA, you may find yourself unable to get other insurance when your COBRA coverage runs out.

How do you elect COBRA coverage?

The administrator of your health insurance plan is required to notify you of your rights to continue coverage under COBRA. However, in some cases (such as divorce, legal separation, or emancipation of a minor), the plan administrator must first be notified that a qualifying event has occurred. You have at least 60 days to elect coverage. The clock starts ticking either the day your coverage is terminated or the day you receive notification of your COBRA continuation rights, whichever occurs later.

Although the law does not require your election to be made in writing, it is advisable to do so. Whether you accept or decline coverage, it is safer for all parties involved to get this decision in writing. Also, it is presumed that if a covered employee or spouse elects to continue coverage, this election applies to all qualified beneficiaries. If any qualified beneficiary wishes to be excluded from coverage, this information should be presented in a written waiver.

Tip: *The Trade Act of 2002 (H.R. 3009) provides special temporary COBRA election rules for individuals who lost their jobs due to trade-related reasons and are eligible for trade adjustment assistance.*

How much should you expect to pay for COBRA coverage?

If you continue your health insurance benefits through COBRA, your employer will no longer pay for any part of the premiums. Thus, you will be expected to pay the full cost of your coverage. You may also be charged a fee of up to 2 percent of this amount for administrative expenses. You may have to pay for a full year's coverage in one lump sum, although in some cases you are given the option of paying in monthly installments. COBRA may cost considerably more than you were paying for coverage before termination, but it is probably significantly less than you would pay for comparable individual coverage.

Tip: *Certain workers who lose their jobs due to trade-related reasons and are eligible for trade adjustment assistance under the Trade Act of 2002 may be eligible for a tax credit equal to 65 percent of the cost of COBRA coverage. Consult a tax professional for additional information.*

Will your COBRA coverage be the same insurance you had through your employer?

COBRA coverage must be identical to the coverage that is provided to other employees and their dependents who have not experienced a qualifying event. You may, however, be given the option to waive certain types of coverage to reduce the cost of your premium.

Example(s): *Before she divorced her husband Willy, May was covered under Willy's employer-sponsored health insurance plan. May was entitled to hospital expense, surgical expense, physicians' expense, major medical, and dental coverage. After her divorce, May must be offered identical coverage through COBRA. However, May could be given the option of dropping the dental coverage to lower her premium.*

What happens when your COBRA coverage expires?

At the end of your COBRA coverage period, depending on the terms of your employer's group policy, you may have the right to convert your group coverage to an individual policy without taking a physical examination or answering medical questions. An individual policy obtained through COBRA will almost certainly cost more than a policy obtained on your own, and it may be somewhat limited in terms of coverage. However, if you are unable to obtain other medical insurance due to poor health, this can be a valuable option.

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