



**COBRA**

**COBRA** continuation does apply to only employer-sponsored group health plans if the employer employed more than 20 employees.

## **WHO IS COVERED AND WHO IS NOT!!!**

People who are covered by **COBRA** are

1. Laid off employees and their families.
2. Divorcees, widows and their children who lose coverage as a result of divorce or the death of an employed spouse.
3. Spouses who lose group coverage because the covered family member became eligible for Medicare while the spouse remained ineligible.
4. Qualified beneficiary which is an individual other than the employee, such as the spouse of the employee covered by the plan or a dependent child of an employee.

People who are not covered by **COBRA** are:

1. Individuals entitled to Medicare benefits on the day before a qualifying event.
2. Qualified beneficiary – employee that is covered under any other group health plan that is not maintained by the employer.
3. Employees and qualified beneficiary that become covered under a new or existing group plan.

4. Termination of employment for gross misconduct such as use of alcohol on the job, intentional and flagrant violation of a company policy, the kind of misconduct that will disqualify an employee from unemployment benefits.
5. Benefits terminated or forfeited for submitting a fraudulent claim, violating a covenant not to compete, revealing confidential information of a former employer in violation of a specific plan provision.
6. Employees of firms with fewer than 20 employees (state law entitles them to 120 days of further coverage).

## QUALIFYING EVENTS

The following events qualify for **COBRA** continuation if the event causes loss of coverage for a qualified beneficiary.

- Death of a covered employee;
- Termination or reduction of hours of a covered employee other than by reason of such employee's gross misconduct (exceptions will be discussed in later chapters);
- Divorce or legal separation of a covered employee;
- Qualification of the covered employee for benefits under Title XVIII of the Social Security Act (i.e., Medicare);
- "Aging out" of a child (i.e., he or she ceases to be a dependent child under the age requirements of the plan);

- Bankruptcy of the employer from which the covered employee retired, beginning on or after July 1, 1986.

## LENGTH OF COVERAGE

In general, benefits under **COBRA** continuation coverage begin on the date group health coverage is lost due to the qualifying event. The beginning date for calculating how long the benefits last is the date of the qualifying event.

**COBRA** continuation rights are usually limited to either 18 or 36 months (with the exception of continued coverage under **COBRA** for a maximum period of:

1. **18 months** if coverage would otherwise end due to:
  - Termination, or
  - Reduction of hours.
2. **36 months** if coverage would otherwise end due to:
  - Death of the covered employee;
  - Divorce or legal separation of the covered employee;
  - Qualification of the covered employee for Medicare benefits;
  - Disqualification of a child as a dependent;

3. **29 months** for certain disabled qualified beneficiaries if coverage would otherwise end due to:
  - Termination, or
  - Reduction of hours.

## EARLY END TO COVERAGE

Coverage can end earlier than the 18-month, 29-month, or 36-month period. The events that can cause the coverage to end earlier are:

- The end of the employer's group health plan;
- The failure to pay any premium in a timely fashion;
- Becoming covered under any other group health plan not maintained by that employer which does not contain a pre-existing condition limitation;
- Becoming entitled to Medicare;
- For cause (**COBRA** continuation coverage can be discontinued for cause on the same basis coverage can be ended for a similarly situated active employee with respect to whom a qualifying event has not occurred.);
- No longer disabled.

In case of multiple qualifying events, continuation of coverage is generally limited to 36 months from the first such event.

## NOTICE BY EMPLOYER

The group health plan is to provide notice to each covered employee and spouse of the right to continuation coverage. An initial written notice is to be given when coverage begins under the plan. The employer is to notify the plan administrator of the following qualifying events within 30 days of the event:

- The death of the covered employee;
- The termination or reduction of hours of employment;
- The covered employee becoming entitled to Medicare; or
- A bankruptcy proceeding (with respect to retired employees).

For multi-employer plans, the 1989 amendments allow a plan to provide an employer with more than 30 days to notify the plan administrator of the termination of employment. Similarly, the 14-day period during which the plan administrator must notify the qualified beneficiaries of the right to continue election coverage may be a longer period of time for a multi-employer plan. For example, in some industries employees may work for one employer one week, another in the second week, and yet a third employer during the third week. In these cases, an employer may not know whether an employer has terminated his or her employee or simply has gone to work for another covered employer. By providing longer notice periods, it is expected that these rules will make it easier to comply with the requirement of **COBRA**. This new rule applies to plan years beginning on or after January 1, 1990.

## NOTICE BY EMPLOYEE

Each covered employee or qualified beneficiary is to notify the administrator of the following qualifying events within 60 days after the event:

- Divorce or legal separation, or
- A dependent child ceasing to be a dependent child.

In order for a disabled qualified beneficiary to extend continuation coverage for a maximum of 29 months, he or she must provide certain notices. In particular, a qualified beneficiary must notify the plan administrator of the determination that he or she was disabled within 60 days after the date of the disability determination. The plan administrator must also be notified of any final determination that the qualified beneficiary is no longer disabled, within 30 days of the date of that final determination.

*For more information contact:*

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