

Fact Sheet

U.S. Department of Labor

Employee Benefits Security Administration

May 2003

Proposed Regulations on COBRA Notices

Many Americans may need temporary continuation of group health benefits when coverage would be lost due to job loss, death, or divorce. The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires most group health plans to give workers and their families the opportunity to continue their group health coverage for up to 36 months in certain situations where the coverage would otherwise end. The Labor Department's Employee Benefits Security Administration (EBSA) has proposed rules to provide uniformity and clarity on the various notices that the law requires to be furnished by employers, plan administrators, workers and their families.

Background:

- COBRA gives certain former employees, spouses, and dependent children the right to temporarily continue health coverage at group rates when coverage is lost due to certain specific events.
- Qualified individuals who elect continuation coverage may be required to pay for the cost of such coverage, up to a maximum of 102% of the cost to the plan.
- Events that trigger COBRA coverage include termination of employment or reduction in hours worked, death of an employee, divorce or legal separation from a spouse, and losing status as a dependent under a group health plan. These are called "qualifying events" if they cause the employee or family members to lose group health coverage. COBRA requires specific notices about COBRA rights to be provided by employers, plan administrators, employees and beneficiaries before employees and beneficiaries can elect COBRA continuation coverage.
- Notices required under COBRA include the —
 - General notice given to employees and their spouses when they become covered by a plan.
 - Notice of a qualifying event furnished to plans by employees or beneficiaries in the case of divorce, loss of status as a dependent, and by employers in the case of any other qualifying event.
 - Election notice given by plans to individuals entitled to elect COBRA.
- Although the Department of the Treasury has interpretive authority for the substantive COBRA rights, the Labor Department has interpretive authority over the notice and disclosure provisions of COBRA. The Labor Department published Technical Release 86-2 in 1986 providing guidance on the general notice and a model general notice that have since become outdated because of amendments to COBRA.

General COBRA Notice:

- Under the proposed regulations, the general notice would cover the basic information on COBRA that employees and their families need to know to protect their rights before a qualifying event occurs.

- The notice would be furnished to qualified individuals within 90 days after coverage begins.
- Plans could satisfy this notice requirement by including the required information in the summary plan description (SPD) and furnishing the document within the 90-day time limit.
- The proposal also includes a revised model general notice to make it easier for plan administrators to comply with the notice requirements.

Employer Notice of Qualifying Event:

- Employers must notify plan administrators of certain types of qualifying events, such as loss of job, reduced working hours, death of the employee, and enrollment of an employee in Medicare.
- The proposal clarifies the required timing and content of the notice of qualifying event.

Employee/Family Member Notice of Qualifying Event:

- Employees or their family members must notify plan administrators of other types of qualifying events -- divorce or legal separation and loss of dependent status under the plan.
- The proposal clarifies the content and timing of this notice.
- The proposal would require plans to have reasonable procedures for requiring employees and their families to give this notice and for setting time limits as to when it must be given. Plans would be required to accept notices that meet the minimum content requirements of the proposal.

COBRA Election Notice:

- Under the proposal, the COBRA election notice would contain all of the information individuals need to decide whether to elect COBRA coverage.
- The election notice would have to describe available health plan options, premium payment requirements, the consequences of failing to elect COBRA, and how COBRA coverage could be extended due to disability or a second qualifying event.
- The proposal also contains a model election notice that plans could use to comply with the election notice requirement.

Other Notices:

- After receiving a notice of qualifying event from an employee or family member, plans would be required under the proposal to notify individuals whenever a plan determines that an individual is not eligible for COBRA.
- The proposal would also require plans to notify individuals when their COBRA coverage is terminated earlier than the full time period for which COBRA must be made available.

Contact Information:

For questions about the proposed regulation, contact EBSA's Office of Regulations and Interpretations at (202) 693-8523. Publications on COBRA may be obtained on EBSA's Web site at www.dol.gov/ebsa under Publications and Reports.