

FAQs on COBRA Continuation Health Coverage for Employers and Advisers



U.S. Department of Labor
Employee Benefits Security Administration
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Q1: What is COBRA continuation health coverage?

COBRA – the Consolidated Omnibus Budget Reconciliation Act -- provides a temporary continuation of group health coverage that would otherwise be lost due to certain life events.

Q2: What does COBRA do?

COBRA requires group health plans to offer continuation coverage to covered employees, former employees, spouses, former spouses, and dependent children when group health coverage would otherwise be lost due to certain events. COBRA sets rules for how and when plan sponsors must offer and provide continuation coverage, how employees and their families may elect continuation coverage, and what circumstances justify terminating continuation coverage.

Employers may require individuals to pay for COBRA continuation coverage. Premiums cannot exceed the full cost of coverage, plus a 2 percent administration charge.

Q3: Which employers are required to offer COBRA coverage?

COBRA generally applies to all private-sector group health plans maintained by employers that had at least 20 employees on more than 50 percent of its typical business days in the previous calendar year. Both full- and part-time employees are counted to determine whether a plan is subject to COBRA. Each part-time employee counts as a fraction of a full-time employee, with the fraction equal to the number of hours worked divided by the hours an employee must work to be considered full time. For example, if full-time employees at Company A work 40 hours per week, a part-time employee who works 20 hours per week counts as half of a full-time employee, and a part-time worker who works 16 hours per week counts as four-tenths of a full-time employee.

COBRA also applies to plans sponsored by state and local governments. The law does not apply, however, to plans sponsored by the federal government or by churches and certain church-related organizations.

Q4: Who is entitled to continuation coverage?

A group health plan must offer COBRA continuation coverage only to **qualified beneficiaries** and only after a **qualifying event** has occurred.

Qualified Beneficiaries - A qualified beneficiary is an employee who was covered by a group health plan on the day before a qualifying event occurred or that employee's spouse, former spouse, or dependent child. In certain cases involving employer bankruptcy, a retired employee and their spouse, former spouse, or dependent children may be qualified beneficiaries. In addition, any child born to or placed for adoption with a covered employee during a period of continuation coverage is automatically considered a qualified beneficiary. An employer's agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.

Qualifying Events - Qualifying events are events that cause an individual to lose group health coverage. The type of qualifying event determines who the qualified beneficiaries are and the period of time that a plan must offer continuation coverage. COBRA establishes only the minimum requirements for continuation coverage. A plan may always choose to provide longer periods of continuation coverage and/or contribute toward the cost.

The following are qualifying events for a **covered employee** if they cause the covered employee to lose coverage:

- Termination of the covered employee's employment for any reason other than "gross misconduct," or
- Reduction in the covered employee's hours of employment

The following are qualifying events for a **spouse and dependent child** of a covered employee if they cause the spouse or dependent child to lose coverage:

- Termination of the covered employee's employment for any reason other than "gross misconduct,"
- Reduction in hours worked by the covered employee,
- Covered employee becomes entitled to Medicare,
- Divorce or legal separation from the covered employee, or
- Death of the covered employee.

In addition to the above, the following is a qualifying event for a **dependent child** of a covered employee if it causes the child to lose coverage:

- Loss of "dependent child" status under the plan rules. Under the Affordable Care Act, plans that offer coverage to children on their parents' plan must make coverage available until the child reaches the age of 26.

Q5: Under COBRA, what benefits must be covered?

The continuation coverage must be identical to the coverage currently available under the plan to similarly situated individuals who are not receiving continuation coverage. (Generally, this is the same coverage that the qualified beneficiary had immediately before the qualifying event.) A qualified beneficiary receiving continuation coverage must receive the same benefits, choices, and services that a similarly situated participant or beneficiary currently receives under the plan, such as the right during an open enrollment season to choose among available coverage options. The qualified beneficiary is also subject to the same plan rules and limits that would apply to a similarly situated participant or beneficiary, such as co-payment requirements,

deductibles, and coverage limits. The plan's rules for filing benefit claims and appealing any claims denials also apply.

Any changes to the plan's terms that apply to similarly situated active employees and their families will also apply to qualified beneficiaries receiving COBRA continuation coverage. If a child is born to or adopted by a covered employee during a period of continuation coverage, the child is automatically considered to be a qualified beneficiary receiving continuation coverage. The plan must allow the child to be added to the continuation coverage.

Q6: Who pays for COBRA coverage?

Group health plans can require qualified beneficiaries to pay for COBRA continuation coverage, although plans can choose to provide continuation coverage at reduced or no cost. The maximum amount charged to qualified beneficiaries cannot exceed 102 percent of the cost to the plan for similarly situated individuals covered under the plan who have not incurred a qualifying event. In calculating premiums for continuation coverage, a plan can include the costs paid by both the employee and the employer, plus an additional 2 percent for administrative costs. For qualified beneficiaries receiving the 11-month disability extension of continuation coverage, the premium for those additional months may be increased to 150 percent of the plan's total cost of coverage.

Plans may increase COBRA premiums for qualified beneficiaries if the cost to the plan increases, but generally plans must fix premiums before each 12-month premium cycle. The plan must allow qualified beneficiaries to pay the required premiums on a monthly basis if they ask to do so, and may allow payments at other intervals (for example, weekly or quarterly).

Plans cannot require qualified beneficiaries to pay a premium when they make the COBRA election. Plans must provide at least 45 days after the election (that is, the date the qualified beneficiary mails the election form if using first-class mail) for making an initial premium payment. If a qualified beneficiary fails to make any payment before the end of the initial 45-day period, the plan can terminate the qualified beneficiary's COBRA rights. The plan should establish due dates for any premiums for subsequent periods of coverage, but it must provide a minimum 30-day grace period for each payment.

Plans can terminate continuation coverage if full payment is not received before the end of a grace period. If the amount of a payment made to the plan is incorrect, but is not significantly less than the amount due, the plan must notify the qualified beneficiary of the deficiency and grant a reasonable period (for this purpose, 30 days is considered reasonable) to pay the difference. The plan is not obligated to send monthly premium notices, but must provide a notice of early termination if it terminates continuation coverage early due to failure to make a timely payment.

Q7: What is the Federal Government's role in COBRA?

COBRA continuation coverage laws are administered by several agencies. The Departments of Labor and the Treasury have jurisdiction over private-sector group health plans. The Department of Health and Human Services administers the continuation coverage law as it applies to state and local government health plans.

The Labor Department's interpretive responsibility is limited to the disclosure and notification requirements of COBRA. The Labor Department has issued regulations on the COBRA notice provisions. The Treasury Department has interpretive responsibility to define the required continuation coverage. The Internal Revenue Service, Department of the Treasury, has issued regulations on COBRA provisions relating to eligibility, coverage and payment. The Departments of Labor and the Treasury share jurisdiction for enforcement of these provisions.

Q8: Who can answer other COBRA questions?

More details about COBRA coverage, including COBRA notice and election requirements, and how long COBRA coverage must last, are included in the booklet [An Employer's Guide to Group Health Continuation Coverage Under COBRA](#). To request a copy, contact EBSA at askebsa.dol.gov or call toll-free [1-866-444-3272](tel:1-866-444-3272).

The Centers for Medicare and Medicaid Services offer information about COBRA provisions for public-sector employees. To find out more, visit cms.gov or contact the agency via email at phig@cms.hhs.gov or by calling toll free at [1-877-267-2323](tel:1-877-267-2323), ext. 6-1565.