

Retirement and Health Care Coverage...

*Questions and Answers
for Dislocated Workers*



EMPLOYEE BENEFITS SECURITY ADMINISTRATION
UNITED STATES DEPARTMENT OF LABOR

This publication has been developed by the U.S. Department of Labor, Employee Benefits Security Administration (EBSA).

To view this and other EBSA publications, visit the agency's Website at: **<https://www.dol.gov/agencies/ebsa>**.

To order publications or speak with a benefits advisor, contact EBSA electronically at: **<https://www.askebsa.dol.gov>**.

Or call toll free: **1-866-444-3272**

This material will be made available in alternative format to persons with disabilities upon request:

Voice phone: **(202) 693-8664**

TTY: **(202) 501-3911**

This booklet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

Table of Contents

| | |
|---|-----------|
| Introduction | 1 |
| Protecting Your Health and Retirement Benefits | 1 |
| Maintaining Your Health Coverage | 2 |
| Enrolling in Another Plan | 2 |
| Special enrollment in a spouse's plan | |
| Continuing in Your Old Plan | 4 |
| Who offers COBRA coverage | |
| Electing and paying for coverage | |
| How long COBRA coverage lasts | |
| Possible benefits for trade affected workers | |
| Finding Individual Health Coverage | 7 |
| Health Insurance Marketplace | |
| Medicaid and CHIP | |
| Protecting Your Retirement Assets | 9 |
| Access to retirement funds | |
| Consequences of early withdrawal | |
| Safety of retirement assets | |
| Summary | 13 |
| For More Information | 14 |

NOTE: This publication does not address certain COVID-19-related protections that may be available to you. For more information on these protections, visit the Employee Benefits Security Administration's COVID-19 Response page at <https://www.dol.gov/agencies/ebsa/coronavirus>.

Introduction

Plant and business closings, downsizings, and reductions in hours affect employees in numerous adverse ways. Workers lose income, the security of a steady job and, often, the health and retirement benefits that go along with working full time. As a dislocated worker, you may have many questions about your health and retirement benefits. For instance, *What happens to my health benefits? Can I continue health coverage until I get another job? Do I have access to my retirement funds?*

You may have rights to certain health and retirement benefit protections even if you lose your job. If your company provided a group health plan, you may be entitled to temporary continued health benefits if you cannot find a job immediately. You and your family also may have more affordable or more generous options for health coverage available through other group health plan coverage, such as through a spouse's plan, the individual Marketplace, and certain governmental programs. With a change in employment, you should understand how your retirement benefits are affected. Knowing your rights can help you protect yourself and your family until you are working full-time again.

This booklet addresses some of the common questions dislocated workers ask. In addition, there is a brief guide to additional resources at the back. Together, they can help you make critical decisions about your health care coverage and your retirement benefits.

Protecting Your Health and Retirement Benefits

The Employee Benefits Security Administration enforces and administers the **Employee Retirement Income Security Act (ERISA)**, which provides rights and protections for private-sector health and retirement plan participants and their beneficiaries.

The **Health Insurance Portability and Accountability Act (HIPAA)** provides special enrollment rights in other group health coverage for workers and their family members (for example, in a spouse's employer-provided plan).

The **Consolidated Omnibus Budget Reconciliation Act (COBRA)** provides workers with the right to continue their health coverage in their former employer's plan for a limited time after they lose their jobs.

The **Affordable Care Act (ACA)** also provides special enrollment rights for individual coverage in the Health Insurance Marketplace. The ACA includes additional health coverage protections for dislocated workers and their families. For example, group health plans and Marketplace plans cannot deny health coverage to individuals due to a preexisting condition.

The following questions and answers explain these laws and how they may affect you.

Maintaining Your Health Coverage

One of the first questions dislocated workers ask is: What happens to my health coverage?

HIPAA, COBRA, and the ACA all provide ways to continue coverage. Remember: You, your spouse, and your dependents each have the right to decide among various options for continuing health coverage. For instance, you may enroll in your spouse's plan while one of your dependents may elect COBRA coverage through your former employer's plan.

By knowing your rights, you can make informed decisions that will keep you and your family covered. Even if you are healthy, you never know when you might need health coverage. You can pay a little now and save a lot later.

Enrolling in Another Plan

HIPAA offers protections for people who lose their jobs and their health coverage. The law provides additional opportunities to enroll in an employer sponsored group health plan if you lose other coverage or experience certain life events, and it prohibits discrimination against employees and their dependents based on any health factors they may have, including prior medical conditions, previous claims experience, and genetic information.

For health coverage that is insured, state laws may offer additional protections. Check your plan documents or ask your plan administrator to see if your plan is insured. If it is, visit naic.org/state_web_map.htm for contact information for your state.

The following questions explain how HIPAA can help you.

Q I've lost my job. Is there any way I can get health coverage for me and my family?

A One cost-effective option for maintaining health coverage is special enrollment. If other employer sponsored group health coverage is available (for example, through your spouse's employer-provided plan), you should consider special enrollment in that plan. It allows you and your family to enroll in an employer sponsored group health plan for which you are otherwise eligible, regardless of enrollment periods. However, to qualify, you must request enrollment within 30 days of losing eligibility for other coverage.

After you request special enrollment due to your loss of eligibility for other coverage, your new coverage will begin no later than the first day of the next month.

You and your family members each have an independent right to choose special enrollment under an employer sponsored group health plan for which you or your family members are otherwise eligible. A description of special enrollment rights should be included in the plan materials you received when initially offered the opportunity to sign up for the plan.

Special enrollment rights also arise in the event of a marriage, birth, adoption, or placement for adoption. You have to request enrollment within 30 days of the event. In special enrollment as a result of birth, adoption, or placement for adoption, coverage is retroactive to the day of the event. In the case of marriage, coverage begins on the first day of the next month.

Employees and their dependents who:

- Lose coverage under a state Children’s Health Insurance Program (CHIP) or Medicaid or
- Are eligible to receive premium assistance under those programs

also have special enrollment rights. You or your dependent must request enrollment within 60 days of losing coverage or the determination of eligibility for premium assistance. You may be eligible under CHIP or Medicaid for assistance to pay your group health premiums. For more information, see the chapter on Finding Individual Health Coverage on page 7.

Q What coverage will I get when I take advantage of a special enrollment opportunity?

A Employer sponsored group health plans must offer special enrollees the same benefits that would be available if you were enrolling for the first time. They cannot require you to pay more for the same coverage than other individuals who enrolled when first eligible for the plan.

Q Can my new plan deny me coverage or benefits because I have a preexisting condition?

A Under the ACA, an employer sponsored group health plan cannot deny you coverage due to a preexisting condition. A group health plan generally cannot limit or deny benefits relating to a health condition that was present before you enrolled.

Q Can my new group health plan deny or charge me more for coverage based on my health status?

A No. An employer-sponsored group health plan cannot deny you and your family eligibility or benefits because of certain health factors, including:

- Health status,
- Physical and mental medical conditions,
- Claims experience,
- Receipt of health care,
- Medical history,
- Genetic information,
- Evidence of insurability, and
- Disability.

The plan also cannot charge you more than similarly situated individuals because of these health factors. However, the plan can distinguish among employees based on bona fide employment-based classifications, such as those who work part time or in another geographic area, and establish different benefits or premiums for those different groups.

Continuing in Your Old Plan

Another way to maintain health coverage between jobs is to elect COBRA continuation coverage.

While dislocated workers may lose health coverage from their former employer, they may have the right to continue coverage under certain conditions. Health continuation rules enacted under COBRA apply to dislocated workers and their families as well as to workers who change jobs or whose work hours have been reduced, thus causing them to lose eligibility for health coverage. This coverage is temporary, however, and the employee may bear the cost.

To be eligible for COBRA coverage:

- You must have been enrolled in your employer's health plan when you worked,
- The health plan must continue to be in effect for active employees, and
- You must enroll in COBRA continuation benefits.

Q Which employers are required to offer COBRA coverage?

A Employers with 20 or more employees are usually required to offer COBRA coverage and to notify their employees of the availability of such coverage. COBRA applies to private-sector employees and to most state and local government workers. In addition, many states have laws similar to COBRA, including those that apply to insurers of employers with less than 20 employees (sometimes called mini-COBRA). Check with your state insurance commissioner's office to see if such coverage is available to you.

Q What if the company closed or went bankrupt and there is no health plan?

A If there is no longer a health plan, no COBRA coverage is available. If, however, the company offers another plan, you **may** be eligible for coverage under that plan. Union members who are covered by a collective bargaining agreement that provides for a medical plan also may be entitled to continued coverage.

Q How do I find out about COBRA coverage and how do I elect to take it?

A Employers or health plan administrators must provide an initial *general notice* if you are entitled to COBRA benefits. You probably received the initial notice about COBRA coverage when you were hired.

When you are no longer eligible for health coverage, your employer has to provide you with an *election notice* regarding your rights to COBRA continuation benefits. Here is the sequence of events:

First, employers must notify their plan administrators **within 30 days** after an employee's termination or a reduction in hours that causes an employee to lose health benefits.

Next, the plan administrator must provide notice to individual employees *and their covered dependents* of their right to elect COBRA coverage **within 14 days** after the administrator has received notice from the employer.

Finally, you **must** respond to this notice and elect COBRA coverage **by the 60th day after the written notice is sent or the day health care coverage ceased, whichever is later**. Otherwise, you will lose all rights to COBRA benefits. Spouses and dependent children covered under your health plan have an independent right to elect COBRA coverage upon your termination or reduction in hours. If, for instance, you have a family member with an illness when you are laid off, that person alone can elect coverage.

Certain Trade Adjustment Assistance (TAA) Program participants have a second opportunity to elect COBRA continuation coverage:

- Individuals who are eligible and receive Trade Readjustment Allowances,
- Individuals who would be eligible to receive Trade Readjustment Allowances, but have not yet exhausted their unemployment insurance benefits, and
- Individuals receiving benefits under Alternative Trade Adjustment Assistance or Reemployment Trade Adjustment Assistance, and who did not elect COBRA during the general election period.

This second election period is measured 60 days from the first day of the month in which an individual is determined eligible for the TAA benefits listed above and receives such benefits. For example, if an eligible individual's general election period runs out *at the beginning of the month*, he or she would have approximately 60 more days to elect COBRA. However, if this same individual meets the eligibility criteria *at the end of the month*, the 60 days are still measured from the first of the month, in effect giving the individual about 30 days. You must elect COBRA no later than 6 months after TAA-related loss of coverage. COBRA coverage chosen during the second election period typically begins on the first day of that period. More information about the Trade Act is available at <https://www.doleta.gov/tradeact>.

Q If I elect COBRA, how much do I pay?

A When you were an active employee, your employer may have paid all or part of your group health premiums. Under COBRA, as a former employee, you will usually pay the entire premium – that is, the premium that you paid as an active employee **plus** the amount of the contribution made by your employer. In addition, there may be a 2 percent administrative fee.

Since it is likely that there will be a lapse of a month or more between the date of layoff and the time you make the COBRA election decision, you may have to pay health premiums retroactively – from the time of separation from the company. The first premium, for instance, will cover the entire time since your last day of employment with your former employer.

You should also be aware that you have to pay for COBRA coverage even if you do not receive a monthly statement.

Although they don't have to do so, some employers may subsidize or pay the entire cost of health coverage, including COBRA coverage, for terminating employees and their families as part of a severance agreement. If you do receive this type of severance benefit, talk to your plan administrator about how this would impact your COBRA coverage or your special enrollment rights.

Q If I elect COBRA can I later enroll in a Health Insurance Marketplace plan?

A If you elect COBRA continuation coverage, you will have another opportunity to request special enrollment in a Marketplace plan or new group health plan if you have a new special enrollment event, such as marriage, the birth of a child, or exhausting your continuation coverage. To exhaust COBRA continuation coverage, you must receive the maximum period of continuation coverage available (usually 18 months for job loss) without early termination. Keep in mind if you choose to terminate your COBRA coverage early or fail to pay your COBRA premiums, you generally will have to wait to enroll in other coverage until the next open enrollment period for the Marketplace or the new group health plan.

If you decide to change plans, you may want to keep your COBRA coverage until your Marketplace plan is effective to avoid a gap in coverage.

Q When does COBRA coverage begin?

A Once you elect coverage and pay for it, COBRA coverage begins on the date that health care coverage ceased. It is, essentially, retroactive. In addition, you receive the same health care coverage as active employees do.

Q How long does COBRA coverage last?

A Generally, individuals who qualify are covered for a maximum of 18 months initially, but coverage may end earlier under certain circumstances, including:

- You don't pay your premiums on time,
- Your former employer decides to discontinue a health plan altogether,
- You obtain coverage with another employer's group health plan, or
- You qualify for Medicare benefits.

Employers may offer longer periods of COBRA coverage but are only required to do so under special circumstances, such as disability (yours or a family member's), an employee's death or divorce, or when an employee's child ceases to meet the definition of a dependent child under the health plan.

Q Who can answer other COBRA questions?

A Three federal agencies share COBRA administration. The Department of Labor handles questions about notification rights under COBRA for private-sector employees. The Department of Health and Human Services handles questions relating to state and local government workers. The Internal Revenue Service, as part of the Department of the Treasury, has other COBRA jurisdiction.

More details about COBRA coverage are available at <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra> and also are included in the booklet *An Employee's Guide to Health Benefits Under COBRA*. To receive a copy or to speak to a benefits advisor, contact

the Employee Benefits Security Administration online at <https://www.askebsa.dol.gov> or call **1-866-444-3272**. For telephone numbers of the nearest Department of Health and Human Services' office, call the Federal Citizen Information Center at **1-844-USA-GOVI (872-4681)** or visit [USA.gov](https://www.usa.gov).

Possible benefits for trade affected workers

The Trade Adjustment Assistance Program assists workers who have lost or may lose their jobs due to the negative effects of global trade. This program seeks to provide adversely affected workers with opportunities to obtain the skills, credentials, resources, and support necessary to become reemployed.

Through grants to states, workers who are part of a worker group that is covered by a certified Trade Adjustment Assistance petition may be eligible for benefits and services such as employment and case management services, training, job search and relocation allowances, wage supplement for older workers, and income support (called Trade Readjustment Allowances) while in training. States receive Trade Adjustment Assistance funds throughout the year. For more information about this program, visit <https://www.doleta.gov/tradeact/> or call the Department of Labor's Employment and Training Administration at **1-888-DOL-OTAA (1-888-365-6822)**.

In addition, certain individuals may be eligible for a refundable federal income tax credit that can help with qualified monthly premium payments. The Health Coverage Tax Credit may be used to pay for some types of health insurance coverage, including COBRA continuation coverage.

You may be potentially eligible for the tax credit if you lost your job due to the negative effects of global trade and are eligible to receive certain benefits under the Trade Adjustment Assistance Program, or if you are receiving pension payments from the Pension Benefit Guaranty Corporation. The tax credit pays 72.5 percent of qualified health insurance premiums, with individuals paying 27.5 percent. For more information on TAA, visit <https://www.doleta.gov/tradeact/>.

Eligible individuals may claim the tax credit on their income tax returns at the end of the year. The tax credit also may be available as an advance monthly payment. Qualified family members of eligible TAA recipients or Pension Benefit Guaranty Corporation payees who enroll in Medicare, die, or finalize a divorce, are eligible to receive the tax credit for up to 24 months from the month of the event.

At the time of this printing, the Health Coverage Tax Credit is set to expire December 31, 2020. If you have questions, visit [IRS.gov/hctc](https://www.irs.gov/hctc).

Finding Individual Health Coverage

The Health Insurance Marketplace is another way that workers who lose their jobs can find health coverage for themselves and their families. The Marketplace offers comprehensive health coverage, and you may be eligible for a tax credit that will lower your monthly premiums and cost-sharing reductions that will lower your out-of-pocket costs for deductibles, coinsurance, and copayments.

In the Marketplace you can compare your coverage options and see what your premium, deductibles, and out-of-pocket costs will be before you decide to enroll. You can also choose between different categories and types of plans.

A Marketplace plan, like a group health plan, cannot deny you coverage due to a preexisting condition. A plan generally cannot limit or deny coverage or benefits relating to a health condition that was present before your enrollment date in the plan. Marketplace coverage may be state- or federally-facilitated.

Q When can I enroll in Marketplace health coverage if I lose my job?

A Losing your job-based health coverage is a special enrollment event which allows you to enroll in a Marketplace plan outside of the open enrollment period. To qualify for special enrollment, you must select a plan within 60 days (before or after) of losing your job-based coverage. Keep any documentation you have of your current coverage and effective dates because you may need it when you request special enrollment in a Marketplace plan.

Additionally, every year (usually in mid-November), there is an open enrollment period when anyone can enroll in coverage in a Marketplace health plan. During open enrollment, you also can change from your current Marketplace plan to another Marketplace plan. Your insurance company will send you information about the updated premiums and benefits for your current plan so you can decide if you want to make changes.

Q If I enroll in coverage through the Marketplace, when does coverage begin?

A The date your coverage will start depends on when you select a plan. For more information, visit [Healthcare.gov](https://www.healthcare.gov).

If you need health coverage in the time between losing your job-based coverage and beginning coverage through the Marketplace (for example, if you or a family member needs medical care), you may wish to elect COBRA continuation coverage from your former employer's plan. Electing COBRA will ensure you have health coverage until the coverage through the Marketplace begins. For more information, see the chapter on Continuing in Your Old Plan on Page 4.

Q How do I apply for coverage through the Marketplace?

A You can apply for Marketplace coverage online or get more information at [HealthCare.gov](https://www.healthcare.gov) or by calling **1-800-318-2596** (TTY users should call **1-855-889-4325**). Before you begin, review plans and prices available in your area.

Q When I get a new job, can I change my health coverage?

A When you get a new job, you can consider enrolling in your new employer's group health plan if they offer one. Talk to your new employer about eligibility for the new plan, the benefits it offers, and how to enroll. If you have Marketplace coverage at the time you get a new job, consider how your new eligibility for employment-based group health coverage will impact any related tax credit you may have been receiving. Be sure to consider your new plan's eligibility requirements, including any waiting period that applies, so that you have coverage in place until you enroll in your new plan.

Medicaid and CHIP

When you fill out a Marketplace application, you also can find out if you and your family qualify for free or low-cost coverage from Medicaid and/or the Children's Health Insurance Program (CHIP).

Medicaid is a state-administered health coverage program for low-income families and children, pregnant women, the elderly, people with disabilities, and in some states, other adults. While the Federal government provides a portion of the funding and sets guidelines, states have choices in how they design their program, so Medicaid varies by state. To find information on your state's program, visit [medicaid.gov/state-overviews/index.html](https://www.medicaid.gov/state-overviews/index.html).

In addition, children in families who don't have health coverage due to a temporary reduction in income (for instance, due to job loss) may be eligible for CHIP, a Federal/state partnership that helps provide children with health coverage. States have flexibility in administering CHIP programs. They may choose to expand their Medicaid programs, design separate child health insurance programs, or create a combination of both.

You can apply for and enroll in Medicaid or CHIP any time of year. If you qualify, your coverage can begin immediately. Visit [HealthCare.gov](https://www.healthcare.gov) or call toll-free **1-800-318-2596** (TTY: **1-855-889-4325**) for more information or to apply for these programs. You can also apply for Medicaid by contacting your state Medicaid office. To learn more about the CHIP program in your state, call **1-877-KIDS NOW (543-7669)** or visit [InsureKidsNow.gov](https://www.insurekidsnow.gov).

Protecting Your Retirement Assets

ERISA protects the assets of millions of Americans so that funds placed in retirement plans during their working lives will be there when they retire.

Dislocated workers face two important issues when they leave employment: access to retirement funds and the continued safety of their retirement plan investments.

Q Can I get my retirement money if I am laid off?

A Generally, if you are enrolled in a 401(k), profit sharing, or other type of **defined contribution plan** (a plan in which you have an individual account), your plan may provide a lump sum distribution of your retirement money when you leave the company.

However, if you are in a **defined benefit plan** (a plan in which you receive a fixed, pre-established benefit), your benefits begin at retirement age. These types of plans are less likely to allow you to receive money early.

Whether you have a defined contribution or a defined benefit plan, the form of your retirement plan distribution (lump sum, annuity, etc.) and the date your benefits will be available to you depend upon the provisions contained in your plan documents. Some plans do not permit distribution until you reach a specified age. Other plans do not permit distribution until you have been separated from employment for a certain period of time. In addition, some plans process distributions throughout the year and others only process them once a year. You should contact your plan administrator regarding the rules that govern the distribution of your benefits.

One of the most important documents defining your benefits is the Summary Plan Description (SPD). It outlines what your benefits are and how they are calculated. Your employer or retirement plan administrator can provide a copy.

In addition, you may request an individual benefit statement showing, among other things, the value of your retirement benefits, the amount you have actually earned to date, and your vesting status. These documents contain important information for you, whether you receive your money now or later.

Q Is my plan required to give me a lump sum distribution?

A ERISA does not require that retirement plans provide lump sum distributions. Lump sum distributions are possible only if the plan documents specifically provide for them.

Q If I withdraw money before I retire, are there potential adverse effects?

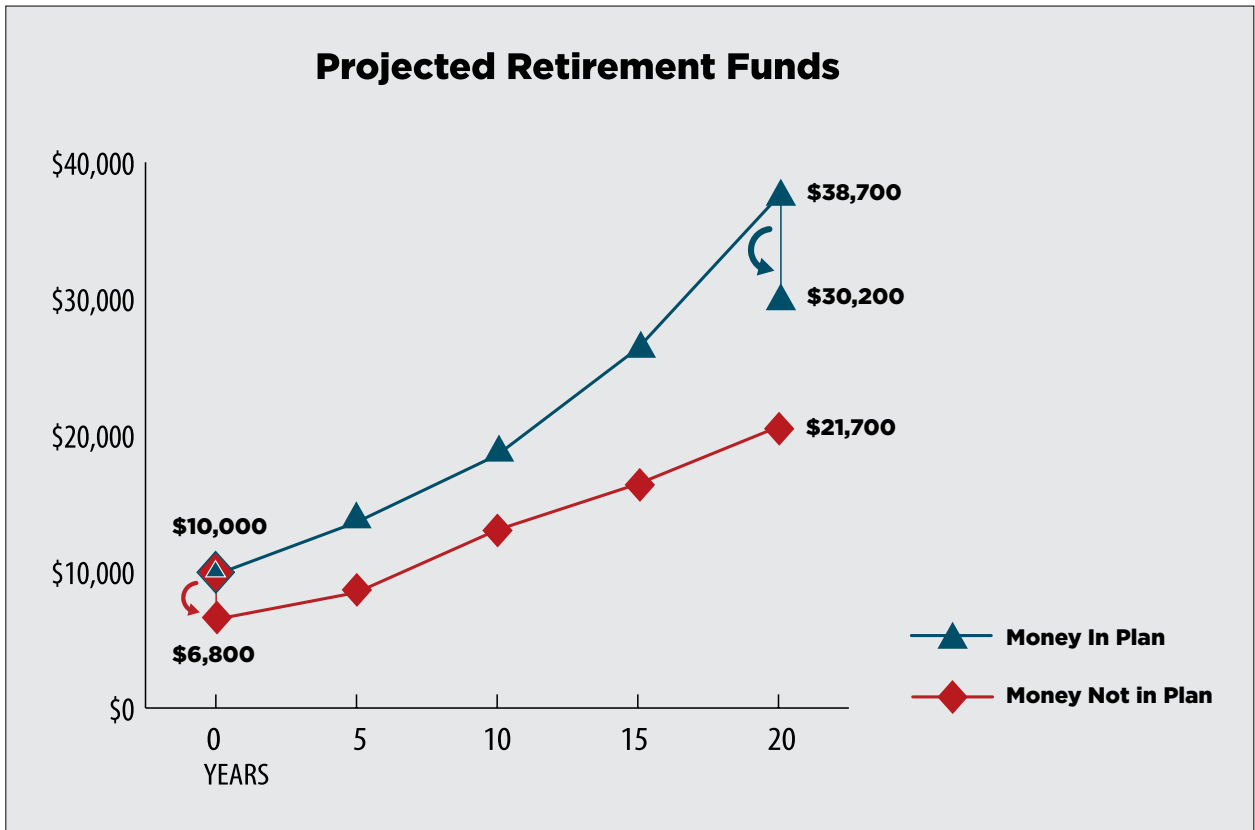
A Yes. Receiving a lump sum or other distribution from your retirement plan may affect your ability to receive unemployment compensation. You should check with your state unemployment office.

In addition, withdrawing money from your retirement plan may result in income tax to pay, and if the money is withdrawn before age 59 ½, you will be charged an additional 10 percent tax penalty. You can defer these taxes, however, if you keep the money in your plan or if you “roll over” the money into a qualified retirement plan or Individual Retirement Account (IRA). There are provisions in the Internal Revenue Code that allow these rollovers.

Generally, your plan must withhold 20 percent of an eligible rollover distribution for tax purposes. However, in the case of a “direct rollover” where you elect to have the distribution paid directly to an eligible retirement plan, including an IRA, there is no tax withholding, and the full amount of your eligible rollover distribution is paid into the new eligible retirement plan. If you do not elect a direct rollover, you will have to make up the 20 percent withholding to avoid tax consequences on the full rollover amount. If an eligible rollover distribution, when added to other rollover distributions you received during the year, is less than \$200, the Internal Revenue Service does not require a 20 percent withholding.

You have 60 days to roll over the distribution you received to another qualified plan or IRA, under IRS rules. If you have a choice between leaving the money in your current retirement plan or depositing it in an IRA, you should carefully evaluate the investments available through each option.

Withdrawing money from your plan before retirement age also affects the amount of money you will accumulate over time. The graph below shows the consequences of receiving money from your retirement plan and not depositing it in another qualified plan within the required time limit.



The blue line in the graph above shows how your money grows tax-free if you leave it in the plan for a period of twenty years in this example. At that point, when the money is distributed to you, you pay taxes on it so your account balance decreases. On the other hand, the red line shows where you start if you remove your money from the plan and do not roll it over into an IRA or another plan. Your account balance decreases during that initial year because you will pay taxes and incur a 10 percent penalty for withdrawing the money before age 59½. After that, your account grows for the next 20 years but at a lower rate because you are paying taxes on your investment earnings.

For example, let's say that you have \$10,000 in a retirement plan account or IRA. Your money is invested in a mix of stocks and bonds that earns an average return on investment of 7 percent. In 20 years, your account will grow, with compounding, to \$38,700. If you withdraw this amount after you reach age 59½ (the age at which you can receive money without a 10 percent penalty) and pay 22 percent income tax on that amount, you will keep nearly \$30,200.

However, if you close your retirement plan account before age 59½, your account balance will decrease from \$10,000 to \$6,800 after paying the 10 percent penalty and 22 percent income tax. In addition, your account grows for the next 20 years but at a lower rate of growth, because you are paying taxes on your investment earnings. As a result, the value of your account after 20 years will be approximately \$21,700, assuming the same rate of return and tax bracket. As shown in the graph, the tax consequences of early withdrawal will cost you 28 percent of your account balance at retirement.

Before you request retirement funds from the plan, you should talk to your employer, bank, union, or financial adviser for practical advice about the long-term and tax consequences.

If you receive retirement funds, you may want to hire someone to manage your money. The law generally requires money managers to be clear and open about their fees and charges and to explain whether they are paid by commissions or for the sales of financial products, such as annuities and mutual funds. Ask questions, get references, and avoid anyone who guarantees good investment performance.

Q If I am laid off, are my retirement funds safe?

A Generally, your retirement funds should not be at risk even if a plant or business closes. Employers must comply with Federal laws when establishing and running retirement plans, and the consequences of not prudently managing plan assets are serious.

In addition, your benefits may be protected by the Federal government. The Pension Benefit Guaranty Corporation, a Federal government corporation, insures most private-sector traditional pension plans (**defined benefit plans**). If an employer cannot fund the plan and the plan does not have enough money to pay the promised benefits, the Pension Benefit Guaranty Corporation will assume responsibility as trustee of the plan or provide assistance to the plan. The benefits paid will be up to a certain maximum guaranteed amount.

The Pension Benefit Guaranty Corporation does not insure **defined contribution plans**.

If your retirement benefit remains with your former employer, keep current on any changes your former employer makes, including changes of address, mergers, and employer name. If you move, give the plan administrator your new contact information.

Our guide, *Ten Warning Signs That Your 401(k) Contributions Are Being Misused*, can help you monitor your retirement plan for potential financial problems and ensure your retirement security: <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebbsa/our-activities/resource-center/publications/ten-warning-signs-that-your-401k-contributions-are-being-misused.pdf>.

If you suspect your retirement benefits aren't safe or aren't prudently invested, you can contact us at <https://www.askebsa.dol.gov> or call **1-866-444-3272** to be connected to the office nearest you.

Q What if my company goes out of business and the retirement plan terminates?

A In a defined contribution plan, the plan administrator generally submits certain retirement plan and tax-related information to the IRS. This process may delay plan termination and subsequent payment of any benefits. You should contact your plan administrator for information on status and length of time before you receive your money.

In a defined benefit plan, the plan administrator generally files certain documents with the IRS and the Pension Benefit Guaranty Corporation if the plan is insured. Once the Pension Benefit Guaranty Corporation approves the termination, benefits are generally distributed in a lump sum or as an annuity within 1 year of termination.

Regardless of the type of benefit plan, you should know the name of the plan administrator. This information is in the latest copy of your SPD. If you can't find the name of your plan administrator, you can contact:

- Your company's personnel department,
- Your union representative (if applicable), or
- The IRS or Pension Benefit Guaranty Corporation (in the case of most defined benefit plans).

You may need to know your employer's identification number, a 9-digit number which can be found on last year's wage tax form (Form W-2). Our regional offices may be able to help you obtain this information.

Q What if the company declares bankruptcy?

A Employer-declared bankruptcy can take many forms. A Chapter 11 (reorganization) bankruptcy may not have any effect on your retirement plan and the plan may continue to exist. A Chapter 7 (final) bankruptcy, where the employer's company ceases to exist, is a more complicated matter.

Because each bankruptcy is unique, you should contact your plan administrator, your union representative, or the bankruptcy trustee, and request an explanation of the status of your plan.

Summary

Know in advance the plan rules that govern how your retirement plan assets and health care benefits are treated if you are laid off. The following documents contain valuable information about your health care and retirement plans. You should be able to get most of them from your plan administrator, union representative, or human resource coordinator.

- Summary Plan Description (SPD): A brief description of your retirement or health plan
- Summary of Benefits and Coverage: An easy-to-understand summary of your health plan coverage that is provided with a glossary of common terms
- Summary Annual Report: A summary of the plan's annual finances, which should contain important names and addresses
- Enrollment forms listing you and/or your family members as participants in a plan
- Earnings and leave statements
- Notices or letters showing the date your health care coverage ended or will end
- Individual Benefit Statements showing how much money is in your retirement plan account or the value of your retirement benefits

Save these documents, as well as memos or letters from your company, union, or bank, that relate to your retirement or health plans. They may prove valuable in protecting your retirement and health benefit rights.

For More Information

The Employee Benefits Security Administration offers more information on HIPAA, COBRA, ACA, and ERISA, including:

- **An Employee's Guide to Health Benefits Under COBRA**
- **Work Changes Require Health Choices...Protect Your Rights**
- **What You Should Know About Your Retirement Plan**

For copies of the above publications, visit <https://www.askebsa.dol.gov>. Or call our toll-free number: **1-866-444-3272**.

If you have specific questions pertaining to your rights to retirement or health benefits under HIPAA, COBRA, ACA, or ERISA, contact our benefits advisors at <https://www.askebsa.dol.gov> or call toll free: **1-866-444-3272** (TTY: **202-501-3911**).

Your Guaranteed Pension and other information on terminated pension plans are available on the Pension Benefit Guaranty Corporation Website at pbgc.gov. Or call toll-free: **1-800-400-7242**.



EMPLOYEE BENEFITS SECURITY ADMINISTRATION
UNITED STATES DEPARTMENT OF LABOR

May 2020