



COBRA Rights

Introduction

A federal law known as COBRA (short for the Consolidated Omnibus Budget Reconciliation Act of 1985) provides a vital bridge between health plans for qualified workers, their spouses, and their dependent children when their health insurance might otherwise be cut off. Because of that security, COBRA has been hailed as a much-needed safety net for families in the midst of crisis, such as unemployment, divorce, or death.

Eligibility

Under COBRA, if you voluntarily resign from a job or are terminated for any reason other than "gross misconduct" you are guaranteed the right to continue your former employer's group plan as individual or family health care coverage for up to 18 months at your own expense. In many cases, your spouse and dependent children are also eligible for COBRA coverage, sometimes for as long as three years. However, individual plans — that is, plans you buy on your own, rather than through work or an association — are not subject to COBRA law, and once you lose that coverage, you won't be able to get an extension under COBRA.

If you are a *spouse* of an employee covered by a group health plan, you have the right to choose continuation coverage for yourself if you lose group health coverage under such group health plan for any of the following reasons:

1. The death of your spouse;
2. A termination of your spouse's employment (for reasons other than gross misconduct) or reduction in your spouse's hours of employment;
3. Divorce or legal separation from your spouse; or
4. Your spouse becomes entitled to Medicare.

In the case of a *dependent child* of an employee covered by a group health plan, he or she has the right to continuation coverage if group health coverage is lost for any of the following reasons:

1. The death of a parent;
2. A termination of parent's employment (for reasons other than gross misconduct) or reduction in a parent's hours of employment;
3. Parent's divorce or legal separation;
4. A parent becomes entitled to Medicare; or
5. The dependent child ceases to be a "dependent child" under the group health plan.

Your responsibilities.

Under the law, you and your family member(s) have the responsibility to inform your employer of a divorce, legal separation, or a child losing dependent status under the group health plan within 60 days of the date of the event or the date in which coverage would end under the Plan because of the event,

whichever is later. Your employer has the responsibility of notifying the Plan Administrator of the employee's death, termination, reduction in hours in employment or Medicare entitlement. Similar rights may apply to certain retirees, your spouse and dependent children if the employer commences a bankruptcy proceeding and these individuals lose coverage.

When the Plan Administrator is notified that one of these events has happened, the Plan Administrator will, in turn, notify you that you have the right to choose continuation coverage. Under the law, you have at least 60 days from the date you would lose coverage of one of the events described above, or the date of your election notice is sent to you, whichever is later, to inform the Plan Administrator that you want continuation coverage.

If you do not choose continuation coverage, your group health insurance will end.

If you choose continuation coverage, the employer is required to give you coverage which, as of the time coverage is being provided, is identical to the coverage provided under the plan to similarly situated non-COBRA beneficiaries or family members. The law requires that you be afforded the opportunity to maintain continuation coverage for three years unless you lost group health coverage because of a termination of employment or a reduction in hours. In that case, the required continuation coverage period is 18 months. This 18 months may be extended to 36 months if other events (such as death, divorce, legal separation, or Medicare entitlement) occur during that 18-month period.

Disability Extension.

Under current law, if an individual is entitled to COBRA continuation coverage because of a termination of employment or reduction in hours of employment, the plan is generally required to make COBRA continuation coverage available to that individual for 18 months. However, if the individual entitled to the COBRA continuation coverage is disabled (as determined under the Social Security Act) and satisfies the applicable notice requirements, the plan must provide COBRA continuation coverage for 29 months, rather than 18 months. Under current law, the individual must be disabled at the time of termination of employment or reduction in hours of employment. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) makes changes to current law to provide that, beginning January 1, 1997, the disability extension will also apply if the individual becomes disabled at any time during the first 60 days of COBRA continuation coverage. HIPAA also makes it clear that, if the individual entitled to the disability extension has non-disabled family members who are entitled to COBRA continuation coverage, those non-disabled family members are also entitled to the 29-month disability extension.

Definition of Qualified Beneficiary.

Individuals entitled to COBRA continuation coverage are called qualified beneficiaries. Individuals who may be qualified beneficiaries are the spouse and dependent children of a covered employee and, in certain circumstances, the covered employee. Under current law, in order to be a qualified beneficiary, an individual must generally be covered under a group health plan on the day before the event that causes a loss of coverage (such as termination of employment, or a divorce from or death of the covered employee). HIPAA changes this requirement so that a child born to the covered employee or who was placed for adoption with the covered employee during the period of COBRA continuation coverage is also a qualified beneficiary.

Termination of Continuation Coverage.

However, the law also provides that your continuation coverage may be terminated for any of the following reasons:

1. The employer no longer provides group health coverage to any of its employees;
2. The premium for your continuation coverage is not paid on time;
3. You become covered by another group plan, unless the plan contains any exclusions or limitations with respect to any preexisting condition you or your covered dependents may have (see Duration of COBRA Continuation below);
4. You become entitled to Medicare;
5. You extend coverage for up to 29 months due to your disability and there has been a final determination that you are no longer disabled.

Duration of COBRA Continuation.

Under the COBRA rules, there are situations in which a group health plan may stop making COBRA continuation coverage available earlier than usually permitted. One of those situations is where the qualified beneficiary obtains coverage under another group health plan (see number 3 above). Under current law, if the other group health plan limits or excludes coverage for any preexisting condition of the qualified beneficiary, the plan providing the COBRA continuation coverage cannot stop making the COBRA continuation coverage available merely because of the coverage under the other group health plan. HIPAA limits the circumstances in which plans can apply exclusions for the preexisting conditions. HIPAA makes a coordinating change to the COBRA rules so that if a group health plan limits or excludes benefits for preexisting conditions, but because of the new HIPAA rules those limits or exclusions would not apply to (or would be satisfied by) an individual receiving COBRA continuation coverage, then the plan providing COBRA continuation coverage can stop making the COBRA continuation coverage available. The HIPAA rules limiting the applicability of exclusions for preexisting conditions become effective in plan years beginning on or after July 1, 1997 (or later for certain plans maintained pursuant to one or more collective bargaining agreements).

You do not have to show that you are insurable to choose continuation coverage. However, under the law, you may have to pay all or part of the premium for your continuation coverage. There is a grace period of at least 30 days for payment of the regularly scheduled premium. The law also says that at the end of the 18-month or 36-month COBRA continuation coverage period you must be allowed to enroll in an individual conversion plan provided under the employer.

This law applies to your employer's group health plan. If you have any questions, please contact the Plan Administrator through your employer's Human Resources Department. Also, if you have changed marital status, or you or your spouse have changed your address, please notify the Plan Administrator.



Self Funding Administrators Corporation
Post Office Box 6596
Annapolis, Maryland 21401

410-757-4200 or toll free 800-424-8611
www.self-funding-admin.com