

The Consolidated Omnibus Budget Reconciliation Act of 1985 – COBRA

COBRA applies only to employers who offer a group health plan and who have at least 20 employees on more than 50 percent of the previous calendar year. If your business employs fewer than 20 workers or does not offer its employee's health care coverage under a group plan, you have no responsibilities as an employer under COBRA. COBRA counts part-time worker equivalents, which means that it will combine the hours of two or more part-time workers to make a single full-time worker under the law to meet the 20 employee minimum.

COBRA requires employers to extend employees' health insurance coverage (and the health coverage of employees' covered spouses and dependents) in certain instances where an employee might otherwise lose coverage. An employer is not required to pay the cost of this "continuation coverage," but COBRA does impose certain obligations that must be met.

An employer is required to offer a "qualified beneficiary" who experiences a "qualifying event" the opportunity to continue health insurance coverage for up to 18, 29 or 36 months, depending on the type of event and any subsequent events that may occur and result in a loss of coverage. Generally, a qualified beneficiary is a person who is covered by an employer's health plan on the day before the qualifying event.

Qualifying events include the following events that cause an employee or the employee's spouse or dependent to lose coverage under the plan:

- termination of employment or reduction in hours;
- divorce or legal separation;
- death;
- enrollment in Medicare;
- loss of dependent status under the plan; and
- for retired employees, filing of bankruptcy by the employer.

Continuation coverage must be the same coverage the qualified beneficiary had on the day before the qualifying event. An employer can, however, require the qualified beneficiary to pay the entire cost of any premiums. An employer also may, and usually does, require the qualified beneficiary to pay an additional 2% administrative fee.

Notification

General Notice: An employer is required to give employees (and covered spouses and dependents) written notice of their COBRA rights at the time initial coverage begins under the plan or at the time the health plan becomes subject to the COBRA requirements. This notice must set out the employee's (and a covered spouse's or dependents) right to continue coverage under the plan in the event the employee (or a covered spouse or dependent) loses coverage due to a qualifying event.

Second Notice: An employer is required to provide covered employee (or spouse or dependent) when a qualifying event occurs. The law sets specific time periods for which these notifications have to be sent out. For example, an employer must notify its health insurance carrier of the employee's COBRA eligibility within 30 days of the employee's last day at work. The employer/plan administrator then has 14 days in which to notify the employee of the right to elect COBRA coverage.

The Department of Labor fines employers \$110 for every day that a COBRA notice is delinquent. Also, the IRS can assess a penalty tax of \$100 per day for each violation. This fine can be increased to \$200 for each day in which there was more than one Qualified Beneficiary per family. In addition, the employer can be held liable for payment of legal fees, court costs and even for medical claims incurred by a Qualified Beneficiary.



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