

# COBRA

## Consolidated Omnibus Budget Reconciliation Act

Provided by: HANYS Benefit Services

### Federal Continuation Coverage Laws

**COVID-19 Relief Extends COBRA Deadlines:** Due to the COVID-19 pandemic, the federal government has [extended](#) the time to furnish COBRA notices and disclosures, if good faith efforts are made to provide them as soon as administratively practicable. Participants also have additional time to comply with deadlines to elect and pay for COBRA coverage, as well as notify the plan of a qualifying event. IRS [Notice 2021-58](#) clarifies the application of the COBRA deadline extensions for electing COBRA coverage and paying COBRA premiums.

PROVISION	REQUIREMENTS
<b>Covered Employers and Health Plans</b>	Group health plans (fully insured and self-insured) maintained by private-sector, state and local government employers with <b>20 or more employees</b> . However, group health plans maintained by the federal government or by churches are exempt from COBRA.
<b>Qualified Beneficiaries</b>	A qualified beneficiary is generally an employee, spouse or dependent child covered by a group health plan on the day before a qualifying event. In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary.
<b>Eligibility</b>	COBRA continuation coverage is available upon the occurrence of a qualifying event that would, except for the COBRA continuation coverage, cause a qualifying beneficiary to lose his or her health care coverage.
<b>Plan Coverage</b>	<p>Qualified beneficiaries must be offered coverage that is identical to that which is available to similarly situated beneficiaries who are not receiving COBRA coverage under the plan (generally, the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage).</p> <p>A change in the benefits under the plan for the active employees will also apply to qualified beneficiaries. Qualified beneficiaries must be allowed to make the same choices given to non-COBRA beneficiaries under the plan, such as during periods of open enrollment by the plan.</p>
<b>Qualifying Events</b>	Qualifying events are certain events that would cause an individual to lose health coverage. The type of qualifying event will determine who the

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	<p>qualified beneficiaries are and the amount of time that a plan must offer the health coverage to them under COBRA.</p> <p><b>Qualifying Events for Employees:</b></p> <ul style="list-style-type: none"> <li>• Voluntary or involuntary termination of employment for reasons other than gross misconduct (18 months)</li> <li>• Reduction in the number of hours of employment (18 months)</li> </ul> <p><b>Qualifying Events for Spouses:</b></p> <ul style="list-style-type: none"> <li>• Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months)</li> <li>• Reduction in the hours worked by the covered employee (18 months)</li> <li>• Covered employee becoming entitled to Medicare (36 months)</li> <li>• Divorce or legal separation of the covered employee (36 months)</li> <li>• Death of the covered employee (36 months)</li> </ul> <p><b>Qualifying Events for Dependent Children:</b></p> <ul style="list-style-type: none"> <li>• Loss of dependent child status under the plan rules (36 months)</li> <li>• Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months)</li> <li>• Reduction in the hours worked by the covered employee (18 months)</li> <li>• Covered employee becoming entitled to Medicare (36 months)</li> <li>• Divorce or legal separation of the covered employee (36 months)</li> <li>• Death of the covered employee (36 months)</li> </ul>
<p><b>Maximum Continuation Period</b></p>	<p>The maximum duration of COBRA coverage depends on the type of qualifying event, as follows:</p> <ul style="list-style-type: none"> <li>• <b>18 months</b> - Employment termination or reduction in hours of work</li> <li>• <b>29 months</b> - The Social Security Administration (SSA) determines the qualified beneficiary is disabled during the first 60 days of COBRA coverage. This 11-month extension applies to the qualified beneficiary with the disability and all of the qualified beneficiaries in the family.</li> <li>• <b>36 months</b> - Divorce or legal separation, employee's death, entitlement to Medicare or loss of dependent child status</li> <li>• <b>36 months</b> - After a qualifying event that is an employment termination or a reduction in hours of work, a second qualifying</li> </ul>

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	<p>event occurs that is the death of the employee, the divorce or legal separation of the covered employee and spouse, Medicare entitlement (in certain circumstances) or loss of dependent child status under the plan.</p>
<p><b>Early Termination of Coverage</b></p>	<p>COBRA coverage may terminate before the end of the maximum continuation period if one of the following events occurs:</p> <ul style="list-style-type: none"> <li>• Premiums are not paid on a timely basis.</li> <li>• The employer ceases to maintain any group health plan.</li> <li>• After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of the beneficiary. However, if other group health coverage is obtained prior to the COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.</li> <li>• After the COBRA election, a beneficiary becomes entitled to Medicare benefits. However, if Medicare is obtained prior to COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.</li> </ul>
<p><b>Notice Requirements</b></p>	<p><b>Keep in mind that COVID-19-related <a href="#">deadline relief</a> may apply.</b></p> <p>Health plan administrators must provide an <b>initial general notice</b> when group health coverage begins. When a qualifying event occurs, health plan administrators must provide an <b>election notice</b> regarding rights to COBRA continuation benefits to each qualifying beneficiary who loses plan coverage in connection with the qualifying event.</p> <p>Employers must notify their plan administrators of a qualifying event within <b>30 days</b> after an employee's death, termination, reduced hours of employment or entitlement to Medicare that causes an employee to lose health benefits. A qualified beneficiary must notify the plan administrator of a qualifying event within <b>60 days</b> after divorce or legal separation or a child's ceasing to be covered as a dependent under plan rules.</p> <p>The plan administrator must provide notice to plan participants and beneficiaries of their right to elect COBRA coverage (election notice) within <b>14 days</b> after the administrator has received notice from the employer. Where the employer is also the plan administrator and the qualifying event is one for which the employer is required to notify the plan administrator, the employer must provide the qualified beneficiary with an election notice within <b>44 days</b> of the date of the qualifying event (or the date on which the qualified beneficiary loses coverage as a result of the qualifying event, if the employer uses the extended notice rule).</p> <p>The individual must respond to this notice and elect COBRA coverage by the <b>60th day</b> after the written notice is sent or the day health care coverage</p>

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	<p>ceased, whichever is later. Otherwise, the employee will lose all rights to COBRA benefits.</p> <p>Spouses and dependent children covered under the health plan have independent rights to elect COBRA coverage upon employee's termination or reduction in hours.</p>
<b>Premium Payments</b>	<p>Beneficiaries may be required to pay for COBRA coverage. The premium cannot exceed <b>102 percent</b> of the cost to the plan for similarly situated individuals who have not incurred a qualifying event, including both the portion paid by employees and any portion paid by the employer before the qualifying event.</p> <p>For qualified beneficiaries receiving the 11-month disability extension of coverage, the premium for those additional months may be increased to 150 percent of the plan's total cost of coverage.</p> <p>COBRA premiums may be increased if the costs to the plan increase, but generally must be fixed in advance of each 12-month premium cycle. The plan must allow individuals to pay premiums on a monthly basis if the individual asks to do so. In addition, the plan may allow the individual to make payments at other intervals (weekly or quarterly).</p> <p>The initial premium payment must be made within <b>45 days</b> after the date of the COBRA election by the qualified beneficiary, <b>although COVID-19-related deadline relief may apply</b>. Payment generally must cover the period of coverage from the date of COBRA election retroactive to the date of the loss of coverage due to the qualifying event. Premiums for successive periods of coverage are generally due on the date stated in the plan with a minimum 30-day grace period for payments. Payment is considered to be made on the date it is sent to the plan.</p> <p>If premiums are not paid by the first day of the period of coverage, the plan has the option to cancel coverage until payment is received and then reinstate coverage retroactively to the beginning of the period of coverage.</p> <p>If the amount of the payment made to the plan is made in error but is not significantly less than the amount due, the plan is required to notify the individual 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.</p>
<b>Applicable Statutes</b>	<p>IRC § 4980B, ERISA §601 <i>et seq.</i>, 29 CFR §§ 2590.606–1 through 2590.606–4.</p>
<b>Government Agency Contact</b>	<p>Departments of Labor and the Treasury (private sector plans) and the Department of Health and Human Services (public sector plans). More information on COBRA coverage is available from the <a href="#">Department of Labor</a>.</p>

*This chart is provided to you for general informational purposes only. It broadly summarizes state and federal statutes under COBRA, but does not include references to other legal resources unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.*

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