

KNOW YOUR BENEFITS.

From Minnesota Nurses Association



Employee's Guide to Understanding COBRA

What is COBRA continuation health coverage?

Congress passed the landmark Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions in 1986. The law amends the Employee Retirement Income Security Act, the Internal Revenue Code and the Public Health Service Act to provide continuation of group health coverage that otherwise might be terminated.

What does COBRA do?

COBRA provides certain former employees, retirees, spouses, former spouses and dependent children the right to temporary continuation of health coverage at group rates. This coverage, however, is only available when coverage is lost due to certain specific events. Group health coverage for COBRA participants is usually more expensive than health coverage for active employees, since usually the employer pays a part of the premium for active employees while COBRA participants generally pay the entire premium themselves.

Are there alternatives for health coverage other than COBRA?

If you become entitled to elect COBRA coverage when you otherwise would lose coverage under a group health plan, you should consider all options you may have to get other health coverage before you make your decision. There may be more affordable or more generous coverage options for you and your family through other group health plan coverage (such as a spouse's plan), the Health Insurance Marketplace (Marketplace) or Medicaid.

Under the Health Insurance Portability and Accountability Act (HIPAA), if you or your dependents are losing eligibility for group health coverage, including eligibility for continuation coverage, you may have a right to special enroll (enroll without waiting until the next open season for enrollment) in other group health coverage. For example, an employee losing eligibility for group health coverage may be able to special enroll in a spouse's plan. A dependent losing eligibility for group health coverage may be able to enroll in a different parent's group health plan. To have a special enrollment opportunity, you or your dependent must have had other health coverage when you previously declined coverage in the plan in which you now want to enroll. You must request special enrollment within 30 days from the loss of your

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job-based coverage.

Losing your job-based coverage is also a special enrollment event in the Marketplace (or Exchange). In the Marketplace, you could be eligible for a tax credit that lowers your monthly premiums and cost-sharing reductions (amounts that lower your out-of-pocket costs for deductibles, coinsurance and copayments), and you can see what your premium, deductibles and out-of-pocket costs will be before you make a decision to enroll.

Eligibility for COBRA continuation coverage won't limit your eligibility for Marketplace coverage or for a tax credit. You can apply for Marketplace coverage at www.healthcare.gov or by calling 1-800-318-2596. To qualify for special enrollment in a Marketplace plan, you must select a plan within 60 days before or 60 days after losing your job-based coverage. In addition, during an open enrollment period,

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anyone can enroll in Marketplace coverage. 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 coverage from your former employer's plan. COBRA continuation coverage will ensure you have health coverage until the coverage through your Marketplace plan begins.

Through the Marketplace you can also learn if you qualify for free or low-cost coverage from Medicaid or the Children's Health Insurance Program (CHIP). You can apply for and enroll in Medicaid or CHIP any time of year. If you qualify, your coverage begins immediately. Visit www.healthcare.gov or call 1-800-318-2596 for more information or to apply for these programs. You can also apply for Medicaid by contacting your state Medicaid office and learn more about the CHIP program in your state by calling 1-877-KIDS-NOW (543-7669) or visiting www.insurekidsnow.gov.

If you or your dependent elects COBRA continuation coverage, you will have another opportunity to request special enrollment in a group health plan or a Marketplace plan if you have a new special enrollment event, such as marriage or the birth of a child, or if you exhaust your continuation coverage. To exhaust COBRA continuation coverage, you or your dependent must receive the maximum period of continuation coverage available without early termination. Keep in mind if you choose to terminate your COBRA continuation coverage early with no special

enrollment opportunity at that time, you generally will have to wait to enroll in other coverage until the next open enrollment period for the new group health plan or the Marketplace.

Who is entitled to benefits under COBRA?

There are three elements to qualifying for COBRA benefits. COBRA establishes specific criteria for plans, qualified beneficiaries and qualifying events:

Plan Coverage - Group health plans for employers with 20 or more employees on more than 50 percent of its typical business days in the previous calendar year are subject to COBRA. 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 an employee, with the fraction equal to the number of hours that the part-time employee worked divided by the hours an employee must work to be considered full time.

Qualified Beneficiaries - A qualified beneficiary generally is an individual covered by a group health plan on the day before a qualifying event who is one of the following: an employee, the employee's spouse or an employee's dependent child. In certain cases, a retired employee, the retired employee's spouse and the retired employee's dependent children may be qualified beneficiaries. 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. 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 certain events that would cause an individual to lose health coverage. The type of qualifying event will determine who the qualified beneficiaries are and the amount of time that a plan must offer the health coverage to them under COBRA. A plan, at its discretion, may provide longer periods of continuation coverage.

Qualifying Events for Employees:

- Voluntary or involuntary termination of employment for reasons other than gross misconduct
- Reduction in the number of hours of employment



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Qualifying Events for Spouses:

- Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct
- Reduction in the hours worked by the covered employee
- Covered employee becoming entitled to Medicare
- Divorce or legal separation of the covered employee
- Death of the covered employee

Qualifying Events for Dependent Children:

- Loss of dependent child status under the plan rules
- Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct
- Reduction in the hours worked by the covered employee
- Covered employee becoming entitled to Medicare
- Divorce or legal separation of the covered employee
- Death of the covered employee

How does a person become eligible for COBRA continuation coverage?

To be eligible for COBRA coverage, you must have been enrolled in your employer's health plan when you worked and the health

plan must continue to be in effect for active employees. COBRA continuation coverage is available upon the occurrence of a qualifying event that would, except for the COBRA continuation coverage, cause an individual to lose his or her health care coverage.

How do I find out about COBRA coverage?

Group health plans must provide covered employees and their families with certain notices explaining their COBRA rights. Your COBRA rights must be described in the plan's Summary Plan Description (SPD), which you should receive within 90 days after you first become a participant in the plan. In addition, group health plans must give each employee and spouse who becomes covered under the plan a general notice describing COBRA rights, also within the first 90 days of coverage.

Before a group health plan must offer continuation coverage, a qualifying event must occur, and the plan must be notified of the qualifying event. Who must give notice of the qualifying event depends on the type of qualifying event.

- The employer must notify the plan if the qualifying event is the covered employee's termination or reduction of hours of employment, death, entitlement to Medicare or bankruptcy of a private-sector employer. The employer must notify the plan within 30 days of the event.
- You (the covered employee or one of the qualified beneficiaries) must notify the plan if the qualifying event is divorce, legal separation or a child's loss of dependent status under the plan. The plan must have procedures for how to give notice of the qualifying event, and the procedures should be described in both the general notice and the plan's SPD. The plan can set a time limit for providing this notice, but it cannot be shorter than 60 days, starting from the latest of: the date on which the qualifying event occurs; the date on which you lose (or would lose) coverage under the plan due to the qualifying event; or the date on which you are informed, through the furnishing of either the SPD or the COBRA general notice, of the responsibility to notify the plan and procedures for doing so.

If your plan does not have reasonable procedures for how to give notice of a qualifying event, you can give notice by contacting the person or unit that handles your employer's employee benefits matters.

When the plan receives a notice of a qualifying event, it must give the qualified beneficiaries an election notice which describes their rights to continuation coverage and how to make an election. This notice must be provided within 14 days after the plan receives notice of the qualifying event.



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How long do I have to elect COBRA coverage?

If you are entitled to elect COBRA coverage, you must be given an election period of at least 60 days (starting on the later of the date you are furnished the election notice or the date you would lose coverage) to choose whether or not to elect continuation coverage.

Each of the qualified beneficiaries for a qualifying event may independently elect COBRA coverage. This means that if both you and your spouse are entitled to elect continuation coverage, you each may decide separately whether to elect COBRA coverage. The covered employee or spouse must be allowed to elect on behalf of any dependent children or on behalf of all of the qualified beneficiaries. A parent or legal guardian may elect on behalf of a minor child.

How do I file a COBRA claim for benefits?

Health plan rules must explain how to obtain benefits and must include written procedures for processing claims. You should submit a claim for benefits in accordance with these rules. Claims procedures must be described in the SPD. Contact the plan administrator for more information on filing a claim for benefits.

Can individuals qualify for longer periods of COBRA continuation coverage?

Yes, if you are entitled to an 18 month maximum period of continuation coverage, you may become eligible for an extension of the maximum time period in two circumstances. The first is when a qualified

beneficiary is disabled; the second is when a second qualifying event occurs.

To qualify for additional months of COBRA continuation coverage due to disability, the qualified beneficiary must:

- Have a ruling from the Social Security Administration that he or she became disabled within the first 60 days of COBRA continuation coverage; and
- Send the plan a copy of the Social Security ruling letter within 60 days of receipt, but prior to expiration of the 18-month period of coverage.

If these requirements are met, the entire family qualifies for an additional 11 months of COBRA continuation coverage. Plans can charge 150 percent of the premium cost for the extended period of coverage.

Also, if you are receiving an 18-month maximum period of continuation coverage, you may become entitled to an 18-month extension (giving a total maximum period of 36 months of continuation coverage) if you experience a second qualifying event that is the death of a covered employee, the divorce or legal separation of a covered employee and spouse, a covered employee's becoming entitled to Medicare (in certain circumstances) or a loss of dependent child status under the plan. The second event can be a second qualifying event only if it would have caused you to lose coverage under the plan in the absence of the first qualifying event. If a second qualifying event occurs, you will need to notify the plan.

Is a divorced spouse entitled to COBRA coverage from their former spouses' group health plan?

Under COBRA, participants, covered spouses and dependent children may continue their plan coverage for a limited time when they would otherwise lose coverage due to a particular event, such as divorce (or legal separation). A covered employee's spouse who would lose coverage due to a divorce may elect continuation coverage under the plan for a maximum of 36 months. A qualified beneficiary must notify the plan administrator of a qualifying event within 60 days after divorce or legal separation. After being notified of a divorce, the plan administrator must give notice, generally within 14 days, to the qualified beneficiary of the right to elect COBRA continuation coverage.

If I waive COBRA coverage during the election period, can I still get coverage at a later date?

If a qualified beneficiary waives COBRA coverage during the election period, he or she may revoke the waiver of coverage before the end of the election period. A



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beneficiary may then elect COBRA coverage. Then, the plan need only provide continuation coverage beginning on the date the waiver is revoked.

Under COBRA, what benefits must be covered?

Qualified beneficiaries must be offered coverage identical to that 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). 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.

How long does COBRA coverage last?

COBRA establishes required periods of coverage for continuation health benefits. A plan, however, may provide longer periods of coverage beyond those required by COBRA. COBRA beneficiaries generally are eligible for group coverage during a maximum of 18 months for qualifying events due to employment termination or reduction of hours of work. Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.

Can COBRA coverage be terminated early for any reason?

A group health plan may terminate coverage earlier than the end of the maximum period for any of the following reasons:

- Premiums are not paid in full on a timely basis
- The employer ceases to maintain any group health plan
- After the COBRA election, coverage is obtained with another group health plan. 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.
- 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.
- A qualified beneficiary engages in conduct that would justify the plan in terminating coverage of a similarly situated participant or beneficiary not receiving continuation coverage (such as fraud).

If continuation coverage is terminated early, the plan must provide the qualified beneficiary with an early termination notice. The notice must be given as soon as practicable after the decision is made, and it must describe the date coverage will terminate, the reason for termination, and any rights the qualified beneficiary may have under the plan or applicable law to elect alternative group or individual coverage. If you decide to terminate your COBRA coverage early, you generally won't be able to get a Marketplace plan outside of the open enrollment period.

Who pays for COBRA coverage?

Qualified beneficiaries may be required to pay for COBRA coverage. The premium cannot exceed 102 percent 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, plus 2 percent for administrative costs.

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.



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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 you to pay premiums on a monthly basis if you ask to do so, and the plan may allow you to make payments at other intervals (weekly or quarterly).

The initial premium payment must be made within 45 days after the date of the COBRA election by the qualified beneficiary. Failure to make any payment within that period of time could cause you to lose all COBRA rights. The plan can set premium due dates for successive periods of coverage (after your initial payment), but it must give you the option to make monthly payments, and it must give you a 30-day grace period for payment of any premium.

If premiums are not paid by the first day of the period of coverage, but are paid within the grace period for that period of coverage, the plan has the option to cancel your coverage until payment is received and then reinstate the coverage retroactively back to the beginning of the period of coverage.

If the amount of the payment made to the plan is incorrect but is not significantly less than the amount due, the plan is required to notify you of the deficiency and grant a reasonable period (for this purpose, 30 days is considered reasonable) to pay the difference. The plan administrator is not obligated to send monthly premium notices.

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 are receiving this type of severance benefit, talk to your plan administrator about how this impacts your COBRA coverage or your special enrollment rights.

If I did not make the premium payment on time and my coverage was canceled what can I do?

You may want to contact your plan and ask if they will reinstate your coverage; however, if your coverage was terminated for not making the payment within the grace period, the plan is not required to reinstate your coverage.

Can I receive COBRA benefits while on FMLA leave?

The Family and Medical Leave Act (FMLA) requires an employer to maintain coverage under any group health plan for an employee on FMLA leave under the same conditions coverage would have been provided if the employee had continued working. Coverage provided under the FMLA is not COBRA coverage, and FMLA leave is not a qualifying event under COBRA. A COBRA qualifying event may occur, however, when an employer's obligation to maintain health benefits under FMLA ceases, such as when an employee notifies an employer of his or her intent not to return to work. More information on the FMLA is available through the U.S. Department of Labor at www.dol.gov/whd.

Am I eligible for COBRA if my company closed or went bankrupt and there is no health plan?

If there is no longer a health plan, there is no COBRA coverage available. If, however, there is another plan offered by the company, you may be covered 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.

Source: U.S. Department of Labor



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