

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA)

COBRA was enacted to help workers and their families keep their group health coverage during times of voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, and in certain other cases. Workers can choose to continue their group health benefits provided by the plan under certain circumstances.

- COBRA generally requires that group health plans sponsored by employers with 20 or more employees in the prior year offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end.
- COBRA covers group health plans maintained by employers with 20 or more employees in the prior year. It applies to plans in the private sector and those sponsored by state and local governments.
- The list of qualifying events that can cause workers and their family members to lose group health coverage and result in the right to COBRA coverage includes:
 - Voluntary or Involuntary Termination of the covered employee’s employment for reasons other than “gross misconduct”;
 - Reduced hours of work for the covered employee;
 - Covered employee becoming entitled to Medicare;
 - Divorce or legal separation of a covered employee;
 - Death of a covered employee; or
 - Loss of status as a “dependent child” under plan rules.
- Under COBRA, the employee or family member may qualify to keep their group health plan benefits for a set period of time, depending on the reason for losing the health coverage. The following information outlines the periods of continuation coverage available:

Qualified Beneficiary	Qualifying Event	Period of Coverage
<ul style="list-style-type: none"> ▪ Employee ▪ Spouse ▪ Dependent child 	<ul style="list-style-type: none"> ▪ Termination ▪ Reduced hours 	18 months
<ul style="list-style-type: none"> ▪ Spouse ▪ Dependent child 	<ul style="list-style-type: none"> ▪ Employee entitled to Medicare ▪ Divorce or legal separation ▪ Death of covered employee 	36 months
<ul style="list-style-type: none"> ▪ Dependent child 	<ul style="list-style-type: none"> ▪ Loss of dependent child status 	36 months

Notification Requirements

- An initial notice must be furnished to covered employees and spouses, at the time coverage under the plan commences, informing them of their rights under COBRA and describing provisions of the law. COBRA information also is required to be contained in the summary plan description.
- When the plan administrator is notified that a qualifying event has happened, they must in turn notify each beneficiary of the right to choose continuation coverage.
- COBRA allows at least 60 days from the date the election notice is provided to inform the plan administrator that the qualified beneficiary wants to elect continuation coverage.
- Under COBRA, the covered employee or a family member has the responsibility to inform the plan administrator of a divorce, legal separation, disability, or a child losing dependent status under the plan.
- Employers have a responsibility to notify the plan administrator of the employee's death, termination of employment, reduction in hours, or Medicare entitlement.

Premium Payments

- Once a qualified beneficiary has elected COBRA coverage, the individual has 45 days from the date of election to pay the retroactive premium.
- Qualified beneficiaries may be required to pay the entire premium for coverage up to 102% of the cost of the plan. Premiums may be higher for persons exercising the disability provisions of COBRA. Failure to make timely payments may result in loss of coverage.
- Premiums may be increased by the plan; however, premiums generally must be set in advance of each 12-month premium cycle.
- Individuals subject to COBRA coverage may be responsible for paying all costs related to deductibles, and may be subject to catastrophic and other benefit limits.

COBRA Enforcement and Penalties

- IRS Penalty – a nondeductible excise tax of \$100 per day, per violation
- ERISA Penalty – Failing to comply with COBRA can subject an employer to an ERISA penalty of up to \$100 per day, per violation
- Payment of Claims – An employer who fails to comply with COBRA may be required to pay the Qualified Beneficiary's claims
- Damages and Attorney Fees – Courts have held employers responsible for non-compliance with COBRA and ordered payment of damages and attorney fees