



AN EMPLOYEE'S GUIDE TO  
HEALTH BENEFITS UNDER  
**COBRA**

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## Introduction



**A health plan helps workers and their families take care of their essential medical needs. It is one of the most important benefits an employer can provide.**

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA), many employees and their families who would lose group health coverage because of serious life events can continue it in the employer's group health plan for a limited time, usually at their own expense.

This booklet explains your rights under COBRA to a temporary extension of employer-provided group health coverage, called COBRA continuation coverage. It will:

- Provide a general explanation of your COBRA rights and responsibilities;
- Outline the COBRA rules that group health plans must follow;
- Highlight your rights while you are receiving COBRA continuation coverage.

## What Is COBRA Continuation Coverage?

The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires most group health plans to provide a temporary continuation of group health coverage that otherwise might be terminated. COBRA requires most group health plans to offer continuation coverage to covered employees, former employees, spouses, former spouses, and dependent children when group health coverage would otherwise be lost due to certain events. Those events include:

- A covered employee's death,
- A covered employee's job loss or reduction in hours for reasons other than gross misconduct,
- A covered employee's becoming entitled to Medicare,
- A covered employee's divorce or legal separation, and
- A child's loss of dependent status (and therefore coverage) under the plan.

Employers may require individuals who elect continuation coverage to pay the full cost of the coverage, plus a 2 percent administration charge. The continuation coverage premium is often more expensive than the amount that active employees are required to pay because the employer usually pays part of the cost of active employees' coverage. COBRA continuation coverage lasts only for a limited period of time.

COBRA generally applies to all group health plans maintained by private-sector employers with at least 20 employees or by state and local governments. The law does not apply, however, to plans sponsored by the federal government or by churches and certain church-related organizations. Many states have laws similar to COBRA, including those that apply to health insurers of employers with fewer than 20 employees (sometimes called mini-COBRA). Check with your state insurance commissioner's office to see if such coverage is available to you.

Under COBRA, a group health plan is any arrangement that an employer establishes or maintains to provide employees or their families with medical care, whether it is provided through insurance, by a health maintenance organization, out of the employer's assets, or through any other means. "Medical care" includes for this purpose:

- Inpatient and outpatient hospital care,
- Physician care,
- Surgery and other major medical benefits,
- Prescription drugs, and
- Dental and vision care.

Life insurance and disability benefits are not considered "medical care." COBRA does not cover plans that provide only life insurance or disability benefits.

COBRA-covered group health plans that are sponsored by private-sector employers generally are governed by the Employee Retirement Income Security Act (ERISA). ERISA doesn't require employers to have plans or to provide any particular type or level of benefits, but it does require plans to follow ERISA's rules. ERISA also gives participants and beneficiaries legally enforceable rights.

## Alternatives to COBRA Continuation Coverage

If you are entitled to elect COBRA continuation coverage, you should consider all options before you make your decision. There may be more affordable or generous health coverage options for you and your family through other group health plan coverage (such as a spouse's plan), the Health Insurance Marketplace, Medicare, Medicaid, or short-term, limited-duration insurance.

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

Losing your job-based health coverage also gives you an opportunity to enroll in the Health Insurance Marketplace. The Marketplace allows you to find and compare private health insurance options. Through the Marketplace, you may qualify for a tax credit that lowers your monthly premiums and cost-sharing reductions to your deductibles, coinsurance, and copayments.

Being offered COBRA continuation coverage doesn't limit your eligibility for Marketplace coverage or for a tax credit. You can apply for Marketplace coverage at [HealthCare.gov](https://www.healthcare.gov) or by calling **1-800-318-2596 (TTY 1-855-889-4325)**. To special enroll in a Marketplace plan, you must select a plan within **60 days** before or after losing your job-based coverage. In addition, anyone can enroll in Marketplace coverage during an open enrollment period. 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. You then will have health coverage until the Marketplace coverage 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 and CHIP at any time. If you qualify, your coverage begins immediately. Visit [HealthCare.gov](https://www.healthcare.gov) or call **1-800-318-2596 (TTY 1-855-889-4325)** 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 your state's CHIP program by calling **1-877-KIDS NOW (543-7669)** or visiting [InsureKidsNow.gov](https://www.insurekidsnow.gov).

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

As an alternative to coverage through the Marketplace, you may also have the option of purchasing short-term, limited-duration insurance. In general, short-term, limited-duration insurance is a type of health insurance coverage that's primarily designed to fill gaps in coverage that may occur when an individual is transitioning from one coverage to another, such as when a person is in between jobs. This type of insurance may not be suitable coverage for all circumstances. It may not provide coverage that is as comprehensive as individual health insurance. This type of coverage may be less expensive

than traditional insurance and is exempt from federal requirements governing traditional insurance. Because this type of insurance is generally subject to state regulation, coverage and availability will vary by state. Some states have regulations limiting the availability of this type of insurance. There are also states requiring coverage using the Affordable Care Act's essential health benefits requirement. If interested in this type of insurance, learn more about your state's regulation at [the National Association of Insurance Commissioners' Website](#).

Medicare is the federal health insurance program for people who are 65 or older and certain younger people with disabilities or End-Stage Renal Disease. Generally, if you lose your job after your Medicare initial enrollment period and did not enroll in Medicare Part A or B, you have an 8-month special enrollment period, beginning the earlier of:

- The month after your employment ends; or
- The month after your group health coverage ends.

If you elect COBRA coverage instead of Medicare, you may have to pay a late enrollment penalty and may have a gap in coverage if you later decide you want Part B. If you enroll in Medicare Part A or B before your COBRA coverage ends, your plan may terminate your continuation coverage. However, if Medicare Part A or B is effective on or before the date you elect COBRA, your plan cannot discontinue your COBRA coverage because of Medicare entitlement even if you enroll in the other part of Medicare after you elect COBRA coverage.

Generally, if you are enrolled in both COBRA and Medicare, Medicare will be the primary payer and COBRA coverage will pay second. Certain plans may pay as if secondary to Medicare, even if you are not enrolled in Medicare. For more information visit [Medicare's Website](#).

## Who Is Entitled to Continuation Coverage?

You must meet three basic requirements to be entitled to elect COBRA continuation coverage:

- Your group health plan must be **covered** by COBRA;
- A **qualifying event** must occur; and
- You must be a **qualified beneficiary** for that event.

## Plan Coverage

COBRA covers group health plans sponsored by an employer (private-sector or state/local government) that had at least 20 employees on more than 50 percent of its typical business days in the previous calendar year. 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 a full-time employee, with the fraction equal to the number of hours worked divided by the hours an employee must work to be considered full-time. For example, if full-time employees at Company A work 40 hours per week, a part-time employee who works 20 hours per week counts as half of a full-time employee, and a part-time worker who works 16 hours per week counts as four-tenths of a full-time employee.

## Qualifying Events

“Qualifying events” are events that cause an individual to lose group health coverage. The type of qualifying event determines who the qualified beneficiaries are and the period of time that a plan must offer continuation coverage. COBRA establishes only the minimum requirements for continuation



coverage. A plan may always choose to provide longer periods of continuation coverage and/or to contribute toward the cost.

The following are qualifying events for a **covered employee** if they cause the covered employee to lose coverage:

- Termination of the covered employee’s employment for any reason other than “gross misconduct,” or
- Reduction in the covered employee’s hours of employment.

The following are qualifying events for a **spouse** and **dependent child** of a covered employee if they cause the spouse or dependent child to lose coverage:

- Termination of the covered employee’s employment for any reason other than “gross misconduct,”
- Reduction in hours worked by the covered employee,
- Covered employee becomes entitled to Medicare,
- Divorce or legal separation from the covered employee, or
- Death of the covered employee.

In addition to the above, the following is a qualifying event for a **dependent child** of a covered employee if it causes the child to lose coverage:

- Loss of “dependent child” status under the plan rules. Under the Affordable Care Act, plans that offer coverage to children on their parents’ plan must make the coverage available until the child reaches the age of 26.

## Qualified Beneficiaries

A qualified beneficiary is an employee who was covered by a group health plan on the day before a qualifying event occurred or that employee’s spouse, former spouse, or dependent child. Only certain individuals can become qualified beneficiaries due to a qualifying event, and the type of qualifying event determines who can become a qualified beneficiary when it happens. A qualified beneficiary must be a covered employee, the employee’s spouse or former spouse, or the employee’s dependent child. In certain cases involving employer bankruptcy, a retired employee and their spouse, former spouse, or dependent children may be qualified beneficiaries. In addition, any child born to or placed for adoption with a covered employee during a period of continuation coverage is automatically considered a qualified beneficiary. An employer’s agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.

## COBRA Notice and Election Procedures

Under COBRA, group health plans must provide covered employees and their families with specific notices explaining their COBRA rights. Plans must also have procedures for how COBRA continuation coverage is offered, how qualified beneficiaries may elect continuation coverage, and when it can be terminated.

## Notice Procedures

### Summary Plan Description

The COBRA rights provided under the plan must be described in the plan's Summary Plan Description (SPD). The SPD is a written document that gives important information about the plan, including what benefits are available under the plan, the rights of participants and beneficiaries under the plan, and how the plan works. ERISA requires group health plans to give you an SPD within 90 days after you become a plan participant (or within 120 days after the plan is first subject to ERISA's reporting and disclosure provisions). In addition, if there are material changes to the plan, the plan must give you a Summary of Material Modifications (SMM) not later than 210 days after the end of the plan year in which the changes become effective. If the change is a material reduction in covered services or benefits, the plan administrator must furnish the SMM within 60 days after the reduction is adopted. If a covered participant or beneficiary requests in writing a copy of these or any other plan documents, the plan administrator must provide them within 30 days.

### COBRA General Notice

Group health plans must give each employee and spouse a general notice describing COBRA rights within the first 90 days of coverage. Group health plans can satisfy this requirement by including the general notice in the plan's SPD and giving it to you and your spouse within this time limit.

The general notice must include:

- The name of the plan and the name, address, and telephone number of someone you can contact for more information on COBRA and the plan;
- A general description of the continuation coverage provided under the plan, and
- An explanation of what you must do to notify the plan of qualifying events or disabilities.

### COBRA Qualifying Event Notice

A group health plan must offer continuation coverage if a qualifying event occurs. The employer, employee or beneficiary must notify the group health plan of the qualifying event, and the plan is not required to act until it receives an appropriate notice. Who must give notice depends on the type of qualifying event.

The **employer** must notify the plan if the qualifying event is:

- Termination or reduction in hours of employment of the covered employee,
- Death of the covered employee,
- Covered employee becoming entitled to Medicare, or
- Employer bankruptcy.

The employer must notify the plan within 30 days after the event occurs.

**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.

You should understand your plan's rules for how to provide notice if one of these qualifying events occurs. Group health plans must have procedures in both the general notice and the SPD for how you can provide notice of these types of qualifying events. The plan can set a time limit for providing this notice, but the time limit cannot be shorter than 60 days, starting from the latest of:



- The date the qualifying event occurs,
- The date you lose (or would lose) coverage under the plan as a result of the qualifying event, or
- The date you are informed, through the furnishing of either the SPD or the COBRA general notice, of the responsibility to notify the plan and the 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. If your plan is a multiemployer plan, notice can also be given to the joint board of trustees, and, if the plan is administered by an insurance company (or the benefits are provided through insurance), notice can be given to the insurance company.

### ***COBRA Election Notice***

After receiving a notice of a qualifying event, the plan must provide the qualified beneficiaries with an election notice within 14 days. The election notice describes their rights to continuation coverage and how to make an election. The notice should contain all of the information you will need to understand continuation coverage and make an informed decision whether or not to elect it. The notice also should provide the name of the plan's COBRA administrator and tell you how to get more information.

### ***COBRA Notice of Unavailability of Continuation Coverage***

Group health plans may sometimes deny a request for continuation coverage or for an extension of continuation coverage. When a plan denies your or any member of your family's request for continuation coverage or request for an extension, the plan must give you or your family member a notice of unavailability of continuation coverage within 14 days after the request is received and explain the reason for denying the request.

### ***COBRA Notice of Early Termination of Continuation Coverage***

Continuation coverage must generally be available for a maximum period (18, 29, or 36 months). The group health plan may terminate continuation coverage early, however, for any number of specific reasons. (See "Duration of Continuation Coverage" on page 9.) When a group health plan decides to terminate continuation coverage early for any of these reasons, the plan must give the qualified beneficiary a notice of early termination. 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.

## Special Rules for Multiemployer Plans

Multiemployer plans are allowed to adopt some special rules for COBRA notices. First, a multiemployer plan may adopt its own uniform time limits for the qualifying event notice or the election notice. A multiemployer plan also may choose not to require employers to provide qualifying event notices, and instead to have the plan administrator determine when a qualifying event has occurred. Any special multiemployer plan rules must be set out in the plan's documents (and SPD).

## Election Procedures

Your plan must give you at least 60 days to choose whether or not to elect COBRA coverage, beginning from the date the election notice is provided or the date you would otherwise lose coverage under your group health plan due to the qualifying event, whichever is later.

Each qualified beneficiary has an independent right to elect continuation coverage. This means that if both you and your spouse are entitled to elect continuation coverage, you each can make a different choice. The plan must allow you or your spouse, however, to elect continuation coverage on behalf of all of the other qualified beneficiaries for the same qualifying event. A parent or legal guardian of a qualified beneficiary must also be allowed to elect on behalf of a minor child.

If you waive continuation coverage during the election period, you must be permitted to later revoke your waiver of coverage and elect continuation coverage, as long as you do so before the election period ends. In such cases, the plan may make continuation coverage begin on the date you revoked the waiver.

Certain Trade Adjustment Assistance (TAA) Program participants have a second opportunity to elect COBRA continuation coverage:

- Individuals who are eligible and receive Trade Readjustment Allowances,
- Individuals who would be eligible to receive Trade Readjustment Allowances, but have not yet exhausted their unemployment insurance benefits, and
- Individuals receiving benefits under Alternative Trade Adjustment Assistance or Reemployment Trade Adjustment Assistance, and who did not elect COBRA during the general election period.

This second election period is measured 60 days from the first day of the month in which an individual is determined eligible for the TAA benefits listed above and receives such benefits. For example, if an eligible individual's general election period runs out *at the beginning of the month*, they would have approximately 60 more days to elect COBRA. However, if this same individual meets the eligibility criteria *at the end of the month*, the 60 days are still measured from the first of the month, in effect giving the individual about 30 days. You must elect COBRA no later than 6 months after TAA-related loss of coverage. COBRA coverage chosen during the second election period typically begins on the first day of that period. More information about the Trade Act is available at [the Employment and Training Administration's Website](#).

## Benefits under Continuation Coverage

The continuation coverage must be identical to the coverage currently available under the plan to similarly situated active employees and their families. (Generally, this is the same coverage that you had immediately before the qualifying event.) You must receive the same benefits, choices, and services that a similarly situated participant or beneficiary currently receives under the plan, such as the right during an open enrollment season to choose among available coverage options. You are also subject to the same rules and limits that would apply to a similarly situated participant or beneficiary, such as co-payment requirements, deductibles, and coverage limits. The plan's rules for filing benefit claims and appealing any claims denials also apply.

Any changes made to the plan's terms that apply to similarly situated active employees and their families will also apply to qualified beneficiaries receiving COBRA continuation coverage. If you have or adopt a child during a period of continuation coverage, your child is automatically considered to be a qualified beneficiary receiving continuation coverage. The plan must allow your child to be added to the continuation coverage.

## Duration of Continuation Coverage

### Maximum Periods

COBRA requires that continuation coverage extend from the date of the qualifying event for a limited period of 18 or 36 months. The length of time for which continuation coverage must be made available (the "maximum period" of continuation coverage) depends on the type of qualifying event. A plan, however, may provide longer periods of coverage beyond the maximum period required by law.

When the qualifying event is the covered employee's termination of employment (for reasons other than gross misconduct) or reduction in work hours, qualified beneficiaries must be eligible for **18 months** of continuation coverage.

When the qualifying event is the end of employment or reduction of the employee's hours, and the employee became entitled to Medicare less than 18 months before the qualifying event, COBRA coverage for the employee's spouse and dependents must be available for up to **36 months** after the date the employee becomes entitled to Medicare. For example, if a covered employee becomes entitled to Medicare 8 months before the date their employment ends (termination of employment is the COBRA qualifying event), COBRA coverage for their spouse and children must be available for up to 28 months (36 months minus 8 months).

For all other qualifying events, qualified beneficiaries must receive **36 months** of continuation coverage.<sup>1</sup>

### Early Termination

A group health plan may terminate continuation 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;
- A qualified beneficiary begins coverage under another group health plan after electing continuation coverage;
- A qualified beneficiary becomes entitled to Medicare benefits after electing continuation coverage; or
- A qualified beneficiary engages in fraud or other conduct that would justify terminating coverage of a similarly situated participant or beneficiary not receiving continuation coverage.

If continuation coverage is terminated early, the plan must provide the qualified beneficiary with an early termination notice. (See "COBRA Notice and Election Procedures" on page 5.)

If you decide to terminate your COBRA coverage early, you generally won't be able to enroll in a Marketplace plan outside of the open enrollment period. (See "Alternatives to COBRA Continuation Coverage" on page 3.)

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<sup>1</sup> Under COBRA, certain retirees and their family members who receive post-retirement health coverage from employers have special COBRA rights in the event that the employer is involved in bankruptcy proceedings begun on or after July 1, 1986. This booklet does not fully describe the COBRA rights of that group.

## Extension of an 18-month Period of Continuation Coverage

There are two circumstances under which individuals entitled to an 18-month maximum period of continuation coverage can become eligible for an extension of that maximum period. The first is when a qualified beneficiary is disabled; the second is when a second qualifying event occurs.

### *Disability*

If one of the qualified beneficiaries in your family is disabled and meets certain requirements, all of the qualified beneficiaries in your family are entitled to an 11-month extension of the maximum period of continuation coverage (for a total maximum period of **29 months** of continuation coverage). The plan can charge qualified beneficiaries an increased premium, up to 150 percent of the cost of coverage, during the 11-month disability extension.

The requirements are, first, that the Social Security Administration (SSA) determines that the qualified beneficiary is disabled before the 60th day of continuation coverage and, second, that the disability continues during the rest of the 18-month period of continuation coverage.

The disabled qualified beneficiary (or another person on his or her behalf) also must notify the plan of the SSA determination. The plan can set a time limit for providing this notice of disability, but the time limit cannot be shorter than 60 days, starting from the latest of:

- The date SSA issues the disability determination;
- The date the qualifying event occurs;
- The date the qualified beneficiary loses (or would lose) coverage under the plan as a result of the qualifying event; or
- The date the qualified beneficiary is informed, through the furnishing of either the SPD or the COBRA general notice, of the responsibility to notify the plan and the procedures for doing so.

The right to the disability extension may be terminated if SSA determines that the qualified beneficiary is no longer disabled. The plan can require disabled qualified beneficiaries to provide notice when such a determination is made. The plan must give the qualified beneficiaries at least 30 days after the SSA determination to provide such notice.

The rules for how to give a disability notice and a notice of no longer being disabled should be described in the plan's SPD (and in the election notice for any offer of an 18-month period of continuation coverage).

### *Second Qualifying Event*

An 18-month extension may be available to a qualified beneficiary while receiving an 18-month maximum period of continuation coverage (giving a total maximum period of **36 months** of continuation coverage) if the qualified beneficiary experiences a second qualifying event, for example, death of a covered employee, divorce or legal separation of the covered employee and spouse, Medicare entitlement (in certain circumstances), or loss of dependent child status under the plan. The second event can be a second qualifying event only if it would have caused the qualified beneficiary to lose coverage under the plan in the absence of the first qualifying event.

You will need to notify the plan if a second qualifying event occurs. The rules for giving notice of a second qualifying event should be described in the plan’s SPD (and in the election notice for any offer of an 18-month period of continuation coverage). The plan can set a time limit for providing this notice, but the time limit cannot be shorter than 60 days from the latest of:

- The date the qualifying event occurs;
- The date you lose (or would lose) coverage under the plan as a result of the qualifying event; or
- The date you are informed, through the furnishing of either the SPD or the COBRA general notice, of the responsibility to notify the plan and the procedures for doing so.

## Summary of Qualifying Events, Qualified Beneficiaries, and Maximum Periods of Continuation Coverage

The following chart shows the maximum period for which continuation coverage must be offered for the specific qualifying events and the qualified beneficiaries who are entitled to elect continuation coverage when the specific event occurs. **Note that an event is a qualifying event only if it causes the qualified beneficiary to lose coverage under the plan.**

QUALIFYING EVENT	QUALIFIED BENEFICIARIES	MAXIMUM PERIOD OF CONTINUATION COVERAGE
Termination (for reasons other than gross misconduct) or reduction in hours of employment	Employee Spouse Dependent Child	18 months <sup>2</sup>
Employee enrollment in Medicare	Spouse Dependent Child	36 months <sup>3</sup>
Divorce or legal separation	Spouse Dependent Child	36 months
Death of employee	Spouse Dependent Child	36 months
Loss of “dependent child” status under the plan	Dependent Child	36 months

<sup>2</sup> In certain circumstances, qualified beneficiaries entitled to 18 months of continuation coverage may become entitled to a disability extension of an additional 11 months (for a total maximum of 29 months) or an extension of an additional 18 months due to the occurrence of a second qualifying event (for a total maximum of 36 months). (See “Duration of Continuation Coverage” on page 9.)

<sup>3</sup> The actual period of continuation coverage may vary depending on factors such as whether the Medicare entitlement occurred prior to or after the end of the covered employee’s employment or reduction in hours. For more information, see “Duration of Continuation Coverage” on page 9 or contact the Department of Labor’s Employee Benefits Security Administration [electronically](#) or call toll free at [1-866-444-3272](tel:1-866-444-3272).

## Paying for Continuation Coverage

Your group health plan can require you to pay for COBRA continuation coverage. The maximum amount charged to qualified beneficiaries cannot exceed 102 percent of the cost to the plan for similarly situated individuals covered under the plan who have not incurred a qualifying event. In calculating COBRA premiums, the plan can include the costs paid by both the employee and the employer, plus an additional 2 percent for administrative costs.

For qualified beneficiaries receiving the 11-month disability extension of continuation coverage, the premium for those additional months may be increased to 150 percent of the plan's total cost of coverage.

Plans may increase COBRA premiums for qualified beneficiaries if the cost to the plan increases, but generally plans must fix premiums before each 12-month premium cycle. The plan must allow you to pay the required premiums on a monthly basis if you ask to do so, and may allow payments at other intervals (for example, weekly or quarterly). The COBRA election notice should describe all of the necessary information about COBRA premiums, when they are due, and the consequences of late payment and nonpayment.

The plan cannot require you to pay a premium when you make the COBRA election. It must provide at least 45 days after you elect COBRA (that is, the date you mail the election form if using first-class mail) for you to make an initial premium payment. If you fail to make any payment before the end of the initial 45-day period, the plan can terminate your COBRA rights. The plan should set due dates for any premiums for subsequent periods of coverage, but it must provide a minimum 30-day grace period for each payment.

If you do not pay a premium by the first day of a coverage period, but pay it within the grace period, the plan may cancel your coverage until payment is received and then reinstate the coverage retroactively back to the beginning of the period. The plan can terminate coverage if full payment is not received before the end of a grace period.

If the amount of a payment made to the plan is incorrect, but is not significantly less than the amount due, the plan must notify you 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, but must provide a notice of early termination if it terminates your continuation coverage due to your failure to make a timely payment.

As part of a severance agreement, some employers may subsidize or pay the entire cost of health coverage, including COBRA coverage, for terminating employees and their families. If you are receiving this type of benefit, talk to your plan administrator about how this impacts your COBRA coverage or your special enrollment rights.



## Health Coverage Tax Credit

Certain individuals may be eligible for a federal income tax credit that can help with qualified monthly premium payments. The Health Coverage Tax Credit may be used to pay for some types of health insurance coverage, including COBRA continuation coverage.

You may be potentially eligible for the tax credit if you lost your job due to the negative effects of global trade and are eligible to receive certain benefits under the Trade Adjustment Assistance Program, or if you are receiving pension payments from the Pension Benefit Guaranty Corporation. The tax credit pays 72.5 percent of qualified health insurance premiums, with individuals paying 27.5 percent. For more information on TAA, visit [the Employment and Training Administration's Website](#).

Eligible individuals may claim the tax credit on their income tax returns at the end of the year. The tax credit also may be available as an advance monthly payment. Qualified family members of eligible TAA recipients or Pension Benefit Guaranty Corporation payees who enroll in Medicare, die, or finalize a divorce are eligible to receive the tax credit for up to 24 months from the month of the event.

At the time of this printing, the Health Coverage Tax Credit is set to expire December 31, 2020. If you have questions, visit [the IRS's Website](#).

## Coordination with Other Federal Benefit Laws

The Family and Medical Leave Act requires employers to maintain coverage under any “group health plan” for employees on Family and Medical Leave Act leave under the same conditions coverage would have been provided if the employee had continued working. Group health coverage that is provided under the Family and Medical Leave Act during a family or medical leave is **not** COBRA continuation coverage, and taking leave under the Act is not a qualifying event under COBRA. A COBRA qualifying event may occur, however, when an employer’s obligation to maintain health benefits under the Family and Medical Leave Act ceases, such as when an employee taking Family and Medical Leave Act leave decides not to return to work and notifies an employer of their intent.

The Affordable Care Act provides additional protections for coverage under an employment-based group health plan, including COBRA continuation coverage. These protections include:

- Extending dependent child coverage to age 26,
- Prohibiting limits or exclusions from coverage for preexisting conditions,
- Banning lifetime or annual dollar limits on coverage for essential health benefits, and
- Requiring group health plans and insurers to provide an easy-to-understand summary of a health plan’s benefits and coverage.

Additional protections that may apply to your employer’s plan include coverage for:

- Certain preventive services (such as blood pressure, diabetes and cholesterol tests, regular well-baby and well-child visits, routine vaccinations and many cancer screenings) without cost sharing; and
- Emergency services in an emergency department of a hospital outside your plan’s network without prior approval from your health plan.

## Role of the Federal Government

COBRA continuation coverage laws are administered by several agencies. The Departments of Labor and the Treasury have jurisdiction over private-sector group health plans. The Department of Health and Human Services administers the continuation coverage law as it applies to state and local government health plans.

The Labor Department's interpretive responsibility for COBRA is limited to the disclosure and notification requirements of COBRA. The Labor Department has issued regulations on the COBRA notice provisions. The Treasury Department has interpretive responsibility to define the required continuation coverage. The Internal Revenue Service, Department of the Treasury, has issued regulations on COBRA provisions relating to eligibility, coverage, and payment. The Departments of Labor and the Treasury share jurisdiction for enforcement of these provisions.

## Resources

If you need further information about COBRA, the Affordable Care Act, HIPAA, or ERISA, visit [the Employee Benefits Security Administration's Website](#). Or contact the Employee Benefits Security Administration [electronically](#) or call toll free [1-866-444-3272](#).

The Centers for Medicare and Medicaid Services offer information about COBRA provisions for public-sector employees. To find out more, visit [CMS's Website](#) or contact the agency via [email](#) or call toll free at [1-877-267-2323, ext. 6-1565](#).

Federal employees are covered by a federal law similar to COBRA. Those employees should contact the personnel office serving their agency for more information on temporary extensions of health benefits.

For more information on the Affordable Care Act, visit [HealthCare.gov](#).

Further information on the Family and Medical Leave Act is available at [the Wage and Hour Division's Website](#) or call toll free [1-866-487-9243](#).

For more information on Medicare, visit [Medicare.gov](#) or call [1-800-MEDICARE](#).

For information on the Trade Adjustment Assistance (TAA) Program, visit [the Employment and Training Association's Website](#). For information about the Health Coverage Tax Credit, visit [the IRS's Website](#).





**EMPLOYEE BENEFITS SECURITY ADMINISTRATION**  
UNITED STATES DEPARTMENT OF LABOR

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