



COBRA Rights General Notice

A Lexis Practice Advisor® Practice Note by
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FORM SUMMARY

This form is a general notice of COBRA continuation coverage rights for members of group health plans. It is given in compliance with COBRA administration procedures under federal law. This form includes practical guidance and drafting notes.

The plan is required to provide this notice to plan participants within 90 days after they become participants in the plan. The information in the general notice may also be included in the plan's summary plan description (which must be updated by a summary of material modifications if any material changes to the COBRA policies occur).

This form was derived from the model general COBRA notice published by the Department of Labor (DOL). The DOL model notice in its original form is available (along with a Spanish language version) at the [DOL website](#). This form is intended to be used along with the following forms: [COBRA Election Notice and Form](#) and [COBRA Qualifying Event Notice](#). For a general practice note on COBRA, see [COBRA Compliance and Enforcement](#). See also the following COBRA compliance flowcharts: [COBRA Notice Flowchart \(Employee Loss of Coverage\)](#); [COBRA Notice Flowchart \(Spouse or Child Loss of Coverage\)](#); [COBRA Second Qualifying Event Flowchart](#); and [COBRA Disability Extension Flowchart](#).

Notice of COBRA Continuation Coverage Rights

Introduction

You are getting this notice because you recently gained coverage under a group health plan (the Plan). This notice has important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan. **This notice explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect your right to get it.** When you become eligible for COBRA, you may also become eligible for other coverage options that may cost less than COBRA continuation coverage.

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you and other members of your family when group health coverage would otherwise end. For more information about your rights and obligations under the Plan and under federal law, you should review the Plan's Summary Plan Description or contact the Plan Administrator.

You may have other options available to you when you lose group health coverage. For example, you may be eligible to buy an individual plan through the Health Insurance Marketplace. By enrolling in coverage through the Marketplace, you may qualify for lower costs on your monthly premiums and lower out-of-pocket costs. Additionally, you may qualify for a 30-day special enrollment period for another group health plan for which you are eligible (such as a spouse's plan), even if that plan generally doesn't accept late enrollees.

What is COBRA continuation coverage?

COBRA continuation coverage is a continuation of Plan coverage when it would otherwise end because of a life event. This is also called a "qualifying event." Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

Alternate Clauses

COBRA continuation coverage is a continuation of Plan coverage when it would otherwise end because of a life event. This is also called a "qualifying event." Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage are not required to pay for COBRA continuation coverage.

If you're an employee, you'll become a qualified beneficiary if you lose your coverage under the Plan because of the following qualifying events:

- Your hours of employment are reduced –or–
- Your employment ends for any reason other than your gross misconduct.

If you're the spouse of an employee, you'll become a qualified beneficiary if you lose your coverage under the Plan because of the following qualifying events:

- Your spouse dies
- Your spouse's hours of employment are reduced
- Your spouse's employment ends for any reason other than his or her gross misconduct
- Your spouse becomes entitled to Medicare benefits (under Part A, Part B, or both) –or–
- You become divorced or legally separated from your spouse

Your dependent children will become qualified beneficiaries if they lose coverage under the Plan because of the following qualifying events:

- The parent-employee dies
- The parent-employee's hours of employment are reduced
- The parent-employee's employment ends for any reason other than his or her gross misconduct
- The parent-employee becomes entitled to Medicare benefits (Part A, Part B, or both)
- The parents become divorced or legally separated –or–
- The child stops being eligible for coverage under the Plan as a "dependent child"

Optional Clauses

Sometimes, filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to [name of employer plan sponsor], and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee will become a qualified beneficiary. The retired employee's spouse, surviving spouse, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.

When is COBRA continuation coverage available?

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. The employer must notify the Plan Administrator of the following qualifying events:

- The end of employment or reduction of hours of employment
- Death of the employee –or–
- The employee's becoming entitled to Medicare benefits (under Part A, Part B, or both)

Alternate Clauses

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. The employer must notify the Plan Administrator of the following qualifying events:

- The end of employment or reduction of hours of employment
- Death of the employee
- The employee's becoming entitled to Medicare benefits (under Part A, Part B, or both) –or–
- Commencement of a proceeding in bankruptcy with respect to the employer

For all other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you must notify the COBRA Administrator within 60 days after the qualifying event occurs. You must provide this notice to [name of COBRA administrator] (see "Plan contact information" further below for contact information).

Drafting Note to Second Paragraph in the "When is COBRA continuation coverage available?" Section

If the plan allows for a period of more than 60 days, or requires any additional procedures for this notice (e.g., the provision of additional information), modify this paragraph accordingly.

Optional Clauses

Attached is the COBRA Event Notice form for you to use to report these events (and certain other events described in the following section) to the COBRA Administrator. The COBRA Event Notice form is also available at [website] or by contacting the COBRA Administrator (see "Plan contact information" further below for contact information).

How is COBRA continuation coverage provided?

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children.

COBRA continuation coverage is a temporary continuation of coverage that generally lasts for 18 months 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.

There are also ways in which this 18-month period of COBRA continuation coverage can be extended:

Disability extension of 18-month period of COBRA continuation coverage

If you or anyone in your family covered under the Plan is determined by Social Security to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to get up to an additional 11 months of COBRA continuation coverage, for a maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of COBRA continuation coverage.

Use the COBRA Event Notice form furnished to you (also available at *[website]* or by contacting the COBRA Administrator) to notify the COBRA Administrator that the qualified beneficiary has received a determination of disability by the Social Security Administration (SSA). A copy of the SSA's determination must be submitted with the COBRA Event Notice.

You or the qualified beneficiary have 60 days from the latest of the following dates to mail or hand deliver the notice to the COBRA Administrator: (1) the date on which the Social Security Administration issued the disability determination; (2) the date of the covered employee's termination of employment or reduction in hours; or (3) the date on which the qualified beneficiary loses (or would lose) coverage under the plan as a result of the covered employee's termination of employment or reduction in hours. **NOTE:** The notice of disability determination must be provided within 18 months after the employee's termination of employment or reduction in hours that triggered COBRA continuation coverage.

A later determination by the SSA that the qualified beneficiary is no longer disabled must be reported to the COBRA Administrator within 30 days of receiving the determination. See the COBRA Event Notice form for additional information.

Drafting Note to "Disability extension of 18-month period of COBRA continuation coverage" Section:

The paragraphs in this section are drafted for use with the form [COBRA Qualifying Event Notice](#). You should modify them if the plan has any alternative or additional procedures for notices regarding disability extensions, including a description of the required information or documentation, the name of the appropriate party to whom notice must be sent, and the time period for giving notice.

Second qualifying event extension of 18-month period of continuation coverage

If your family experiences another qualifying event during the 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if the Plan is properly notified about the second qualifying event. This extension may be available to the spouse and any dependent children getting COBRA continuation coverage if the employee or former employee dies; becomes entitled to Medicare benefits (under Part A, Part B, or both); gets divorced or legally separated; or if the dependent child stops being eligible under the Plan as a dependent child. This extension is only available if the

second qualifying event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.

Use the COBRA Event Notice form furnished to you (also available at *[website]* or by contacting the COBRA Administrator) to notify the COBRA Administrator that a second qualifying event has occurred. You or the qualified beneficiary have 60 days from the later of (1) the date of the second qualifying event or (2) the date that this individual loses (or would lose) coverage under the Plan to mail or hand deliver the notice to the COBRA Administrator. Additional documentation is required for certain events. See the COBRA Event Notice form for additional information.

Drafting Note to Second Paragraph in the “Second qualifying event extension of 18-month period of continuation coverage” Section:

Modify this paragraph as necessary to describe the plan procedures for notices regarding second qualified events, including a description of any required information or documentation, the name of the appropriate party to whom notice must be sent, and the time period for giving notice.

Early termination of continuation coverage

The COBRA continuation coverage of a qualified beneficiary may end before the expiration of the applicable 18-month period (or extended period of coverage for a disability or second qualifying event) if the qualified beneficiary becomes covered under another group health plan or becomes entitled to Medicare benefits (either Part A, Part B, or both).

Use the COBRA Event Notice form furnished to you (also available at *[website]* or by contacting the COBRA Administrator) to notify the COBRA Administrator that a qualified beneficiary has become entitled to Medicare. You or the qualified beneficiary have 30 days from the date the other coverage became effective or the date of Medicare entitlement to mail or hand deliver the notice to the COBRA Administrator. See the COBRA Event Notice form for additional information.

Drafting Note to “Early termination of continuation coverage” Section:

Use this language, modified as necessary to reflect the applicable notice procedures, if the plan terminates the continuation coverage of qualified beneficiaries if they become covered by another plan and/or entitled to Medicare.

Are there other coverage options besides COBRA continuation coverage?

Yes. Instead of enrolling in COBRA continuation coverage, there may be other coverage options for you and your family through the Health Insurance Marketplace, Medicaid, or other group health plan coverage options

(such as a spouse's plan) through what is called a "special enrollment period." Some of these options may cost less than COBRA continuation coverage. You can learn more about many of these options at www.HealthCare.gov.

If you have questions

Questions concerning your Plan or your COBRA continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under the Employee Retirement Income Security Act (ERISA), including COBRA, the Patient Protection and Affordable Care Act, and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.) For more information about the Marketplace, visit www.HealthCare.gov.

Keep your Plan informed of address changes

To protect your family's rights, let the Plan Administrator know about any changes in the addresses of family members. You should also keep a copy for your records of any notices you send to the Plan Administrator.

Plan contact information

[Provide name of the plan(s), name (or position), address, and phone number of party or parties from whom information about the plan(s) and COBRA continuation coverage can be obtained on request, including the plan administrator and, if different, the COBRA administrator.]

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Gabriel Marinaro serves as special counsel in the Employee Benefits and Executive Compensation group. His practice focuses on all aspects of employee benefits and executive compensation. He regularly counsels publicly traded and privately held companies, tax-exempt organizations, and governmental entities on a variety of employee benefits and executive compensation matters. Gabe regularly advises both employers and executives on a wide range of executive compensation matters, including drafting employment agreements, equity compensation arrangements, severance agreements and bonus plans. Gabe provides guidance on nonqualified deferred compensation plans both for for-profit companies and tax-exempt clients. Gabe regularly drafts nonqualified deferred compensation arrangements, including supplemental executive retirement plans, and change in control agreements. Additionally, Gabe advises employers and executives on issues under Code Sections 409A, 457(f), 457A, 162(m), 280G and 83 regarding compensation arrangements for executives.

Gabe assists both publicly traded and privately held companies with equity compensation matters, including drafting equity incentive plans, securities filings, award agreements, and other documentation surrounding the implementation of an equity incentive plan and the underlying awards. Gabe also has drafted and advised on profits interests plans and unit appreciation rights plans for limited liability companies.

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