

FAQs on COBRA Continuation Health Coverage



U.S. Department of Labor
Employee Benefits Security Administration
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Q1: What is COBRA continuation health coverage?

The Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions amend the Employee Retirement Income Security Act, the Internal Revenue Code and the Public Health Service Act to require group health plans to provide a temporary continuation of group health coverage that otherwise might be terminated.

Q2: What does COBRA do?

COBRA requires continuation coverage to be offered to covered employees, their spouses, former spouses, and dependent children when group health coverage would otherwise be lost due to certain specific events. COBRA continuation coverage is often more expensive than the amount that active employees are required to pay for group health coverage, since the employer usually pays part of the cost of employees' coverage and all of that cost can be charged to individuals receiving continuation coverage.

Q3: What group health plans are subject to COBRA?

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

Q4: Are there alternatives for health coverage other than COBRA?

If you become entitled to elect COBRA continuation coverage when you otherwise would lose group health 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, 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 job-based coverage.

Losing your job-based coverage is also a special enrollment event in the Health Insurance Marketplace (Marketplace). The Marketplace offers "one-stop shopping" to find and compare private health insurance options. 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 [HealthCare.gov](https://www.healthcare.gov) or by calling 1-800-318-2596 (TTY 1-855-889-4325). 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, 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 [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 the CHIP program in your state 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 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, 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.

Q5: Who is entitled to continuation coverage under COBRA?

In order 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 employed 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 that the part-time employee worked divided by the hours an employee must work to be considered full time.

Qualifying Events - Qualifying events are events that cause an individual to lose his or her group health coverage. The type of qualifying event determines who the qualified beneficiaries are for that event 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.

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

- Termination of the employee's employment for any reason other than gross misconduct; or
- Reduction in the number of hours of employment.

The following are qualifying events for the 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 the hours worked by the covered employee;
- Covered employee becomes entitled to Medicare;
- Divorce or legal separation of the spouse 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 Patient Protection and Affordable Care Act, plans that offer coverage to children on their parents' plan must make the coverage available until the adult child reaches the age of 26.

Qualified Beneficiaries - A qualified beneficiary is an individual covered by a group health plan on the day before a qualifying event occurred that caused him or her to lose coverage. 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 the bankruptcy of the employer sponsoring the plan, a retired employee, the retired employee's spouse or former 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 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.

Q6: How do I 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.

Q7: 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 provided 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: (1) the date on which the qualifying event occurs; (2) the date on which you lose (or would lose) coverage under the plan due to the qualifying event; or (3) 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. 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.

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.

Q8: 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 do so. 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.

Q9: If I waive COBRA coverage during the election period, can I still get coverage at a later date?

If you waive COBRA coverage during the election period, you must be permitted later to revoke your waiver of coverage and to elect continuation coverage as long as you do so during the election period. Then, the plan need only provide continuation coverage beginning on the date you revoke the waiver.

In addition, 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 (TRA), individuals who would be eligible to receive TRA, but have not yet exhausted their unemployment insurance (UI) benefits, and individuals receiving benefits under Alternative Trade Adjustment Assistance (ATAA) or Reemployment Trade Adjustment Assistance (RTAA), and who did not elect COBRA during the general election period, may get a second election period. This additional, 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 benefit. For example, if an individual's general election period runs out and he or she is determined eligible for TRA (or would be eligible for TRA but have not exhausted UI benefits) or begin to receive ATAA or RTAA benefits 61 days after separating from employment, at the beginning of the month, he or she would have approximately 60 more days to elect COBRA. However, if this same individual does not meet the eligibility criteria until 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. Additionally, a COBRA election must be made not later than 6 months after the date of the 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 doleta.gov/tradeact/.

Q10: Under COBRA, what benefits must be covered?

If you elect continuation coverage, the coverage you are given 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 will also be entitled, while receiving continuation coverage, to the same benefits, choices, and services that a similarly situated participant or beneficiary is currently receiving under the plan, such as the right during open enrollment season to choose among available coverage options. You will also be 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 change 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 a child is born to or adopted by a covered employee during a period of continuation coverage, the child is automatically considered to be a qualified beneficiary receiving continuation coverage. You should consult your plan for the rules that apply for adding your child to continuation coverage under those circumstances.

Q11: How long does COBRA coverage last?

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 depends on the type of qualifying event that gave rise to the COBRA rights. 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 or reduction in hours of employment, qualified beneficiaries are entitled to 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 can last until 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 his/her employment ends (termination of employment is the COBRA qualifying event), COBRA coverage for his/her spouse and children would last 28 months (36 months minus 8 months). For more information on how entitlement to Medicare impacts the length of COBRA coverage, contact the Department of Labor's Employee Benefits Security Administration at askebsa.dol.gov or by calling 1-866-444-3272.

For other qualifying events, qualified beneficiaries must be provided 36 months of continuation coverage.

Q12: Can continuation 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;
- 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 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. For more information on alternatives to COBRA coverage, see question 4 above.

Q13: Can I extend my COBRA continuation coverage?

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.

Disability - If any one of the qualified beneficiaries in your family is disabled and meets certain requirements, all of the qualified beneficiaries receiving continuation coverage due to a single qualifying event 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:

1. that the Social Security Administration (SSA) determines that the disabled qualified beneficiary is disabled before the 60th day of continuation coverage; and
2. 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: (1) the date on which SSA issues the disability determination; (2) the date on which the qualifying event occurs; (3) the date on which the qualified beneficiary loses (or would lose) coverage under the plan as a result of the qualifying event; or (4) the date on which the qualified beneficiary is informed, through the furnishing of 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 the SSA determines that the disabled qualified beneficiary is no longer disabled. The plan can require qualified beneficiaries receiving the disability extension to notify it if the SSA makes such a determination, although the plan must give the qualified beneficiaries at least 30 days after the SSA determination to do so.

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 if you are offered an 18-month maximum period of continuation coverage).

Second Qualifying Event - 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.

The rules for how to give notice of a second qualifying event should be described in the plan's SPD (and in the election notice if you are offered an 18-month maximum 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: (1) the date on which the qualifying event occurs; (2) the date on which you lose (or would lose) coverage under the plan as a result of the qualifying event; or (3) 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 the procedures for doing so.

Q14: 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.

Q15: Who pays for COBRA coverage?

Your group health plan can require you to pay for COBRA continuation coverage. The 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 determining COBRA premiums, the plan can include the costs paid by employees and the employer, plus an additional 2 percent for administrative costs.

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

COBRA charges to qualified beneficiaries may be increased if the cost to the plan increases but generally must be fixed in advance of 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 the plan may allow you to make payments at other intervals (for example, weekly or quarterly). The election notice should contain all of the information you need to understand the COBRA premiums you will have to pay, when they are due, and the consequences of late payment or nonpayment.

When you elect continuation coverage, you cannot be required to send any payment with your election form. You can be required, however, to make an initial premium payment within 45 days after the date of your COBRA election (that is the date you mail in your election form, if you use first-class mail). 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.

You should be aware that if you do not pay a premium by the first day of a period of coverage, but pay the premium 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. Failure to make payment in full before the end of a grace period could cause you to lose all COBRA rights.

If the amount of a 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 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.

Q16: What is the Health Coverage Tax Credit and can it help me pay for COBRA?

Certain individuals may be eligible for a refundable Federal income tax credit that can help with qualified monthly premium payments. The Health Coverage Tax Credit (HCTC), while available, may be used to pay for specified types of health insurance coverage (including COBRA continuation coverage).

Those potentially eligible for the HCTC include workers who lose their jobs due to the negative effects of global trade and who are eligible to receive certain benefits under the Trade Adjustment Assistance (TAA) Program, as well as certain individuals who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC). The HCTC pays 72.5 percent of qualified health insurance premiums, with individuals paying 27.5 percent. For more information on TAA, visit doleta.gov/tradeact/.

Individuals who are eligible for the HCTC 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 beginning in 2017. Qualified family members of eligible TAA recipients or PBGC payees who enroll in Medicare, pass away, or finalize a divorce, are eligible to receive the HCTC for up to 24 months from the month of the event.

Individuals with questions about the Health Coverage Tax Credit should visit IRS.gov/HCTC.

Q17: 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. If you believe your coverage was canceled inappropriately, you can contact an EBSA benefits advisor electronically at askebsa.dol.gov or call 1-866-444-3272 for assistance.

Q18: 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 Summary Plan Description. Contact the plan administrator for more information on filing a claim for benefits.

Q19: 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 taking 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 taking FMLA leave decides not to return to work and notifies an employer of his or her intent not to return to work. Further information on the FMLA is available on the Website of the U.S. Department of Labor's Wage and Hour Division at dol.gov/whd or by calling toll-free 1-866-487-9243.

Q20: I have both Medicare and COBRA coverage, how do I know which will pay my benefits?

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. If you are enrolled in Medicare as well as COBRA continuation coverage, there may be special coordination of benefits rules that determine which coverage is the primary payer of benefits. Check your Summary Plan Description to see if special rules apply or ask your plan administrator. For more information on Medicare, visit Medicare.gov or call 1-800-MEDICARE.

Q21: 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.

Q22: I am a federal employee. Can I receive benefits under COBRA?

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

Q23: Where can I go if I have questions or want more information on COBRA?

COBRA continuation coverage laws are administered by several agencies. The Departments of Labor and 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 governmental health plans.

The Labor Department's interpretive responsibility for COBRA is limited to the disclosure and notification requirements of COBRA. If you need further information on your rights under a private-sector plan, or about ERISA generally, contact the Employee Benefits Security Administration (EBSA) electronically at askebsa.dol.gov or call toll free 1-866-444-3272.

The Internal Revenue Service, Department of the Treasury, has issued regulations on COBRA provisions relating to eligibility, coverage and payment. Both the Departments of Labor and Treasury share jurisdiction for enforcement of these provisions.

The Centers for Medicare and Medicaid Services offer information about COBRA provisions for public-sector employees. You can write them at this address:

Centers for Medicare and Medicaid Services
7500 Security Boulevard
Mail Stop C1-22-06
Baltimore, MD 21244-1850.