

The COBRA Snake in the Grass: What Employers Need to Know



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Benefits Updates

- ▼ Association Health Plans
- ▼ ACA Employer Mandate Enforcement
- ▼ End of Year Best Practices

COBRA OVERVIEW:

What employers/plans are subject to COBRA?

▼ **General rule: Virtually all group health plans are subject to COBRA**

▼ **Exceptions:**

- ▼ **Small employer plans (less than 20 employees)**
 - ▼ **Measured by previous calendar year**
 - ▼ **Related companies must be included**
 - ▼ **Caution: state law requirements may still apply**
- ▼ **Certain church plans**
- ▼ **Federal government plans**
- ▼ **First-aid-only plans**

COBRA OVERVIEW:

What employers/plans are subject to COBRA?

▼ “Group health plans” that:

- ▼ Provide medical care; and
- ▼ Are maintained by an employer

▼ “Medical Care”

- ▼ Includes medical, dental, vision, and drug treatments and coverage
- ▼ If an employer provides medical and group term life insurance, the COBRA requirements apply only to the medical plan

▼ “Maintained by an employer”

- ▼ Include insurance programs, HMOs, employee-paid plans, employee assistance programs, health FSAs, HRAs, and wellness programs
- ▼ Also includes certain “voluntary” plans



COBRA OVERVIEW:

What plans are subject to COBRA?

- ▼ **Certain plans NOT subject to COBRA:**
 - ▼ **Health Savings Accounts (even HSAs maintained by the employer)**
 - ▼ **Health FSAs**
 - ▼ **May be designed so that COBRA coverage only available for employees that “underspent” FSA account**



COBRA OVERVIEW:

What triggers the COBRA coverage obligation?

▼ “Qualifying events” that cause loss of coverage (and trigger COBRA):

- 1. Termination of covered employee’s employment (other than for gross misconduct);**
- 2. Reduction of a covered employee’s hours of employment;**
- 3. Death of a covered employee;**
- 4. Divorce or legal separation from covered employee;**
- 5. Ceasing to be a dependent child under the terms of the plan;**
- 6. Covered employee becoming entitled to Medicare**
- 7. Employer bankruptcy (in certain cases)**

COBRA OVERVIEW:

Who must be offered COBRA coverage?

▼ “Qualified Beneficiaries”:

- ▼ Must be a covered employee or the covered employee’s spouse or dependent child; and
 - ▼ Must be covered by a group health plan immediately before the qualifying event.
- ▼ For a covered employee to be offered, the qualifying event must be termination of employment or reduction of hours of employment.
- ▼ If a Qualified Beneficiary does not elect COBRA coverage during the election period, the person ceases to be a “Qualified Beneficiary” at the end of the election period
- ▼ FAQ: What if the covered employee has a child during a period of COBRA coverage?
- ▼ A: The child is a qualified beneficiary

COBRA OVERVIEW:

What coverage must be offered?

- ▼ **Coverage offered during COBRA period must be identical to coverage provided to similarly situated beneficiaries under the plan**
- ▼ **Open enrollment during COBRA period:**
 - ▼ If open enrollment period is offered to active employees, it must be offered to COBRA Qualified Beneficiaries too
 - ▼ COBRA beneficiary may change benefit option, add dependents, or switch health plans if these options are offered to active employees
- ▼ **If changes are made to health plan coverage for active employees, the COBRA coverage changes as well**

COBRA OVERVIEW:

Notice and Election Process

▼ Qualifying Event Notice

- ▼ Notice to plan administrator by employer or employee/beneficiary that a qualifying event occurred
- ▼ Employer obligation (termination, reduction of hours, death, entitlement to Medicare, or employer bankruptcy)
- ▼ Employee/Beneficiary obligation (divorce or legal separation, or child ceasing to be dependent)

▼ Election Notice

- ▼ Plan administrator must notify each qualified beneficiary within 14 days of receipt of qualifying event notice
- ▼ Election period lasts for 60 days after election notice issued

COBRA OVERVIEW: Length of Coverage

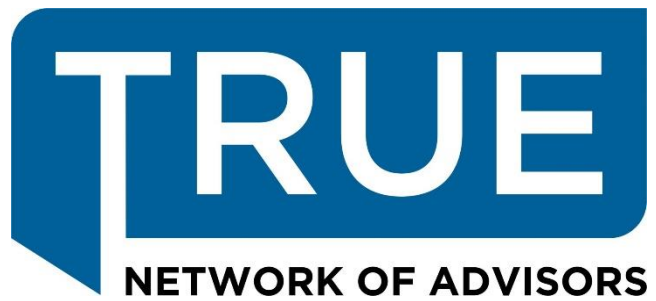
▼ Maximum Coverage Period:

▼ 18 months:

- ▼ Termination of employment
- ▼ Reduction of hours

▼ 36 months:

- ▼ Divorce or legal separation
- ▼ Death of employee
- ▼ Child's loss of dependent status
- ▼ Employee's entitlement to Medicare



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