



Affordable Choice Insurance

Your Independent Agency that keeps You Covered

Your COBRA Rights

If you've lost your job, don't panic yet about losing your health coverage, too. You could be eligible for the continuation of your health insurance benefits.

A federal law known as COBRA (short for the Consolidated Omnibus Budget Reconciliation Act of 1985) provides a vital bridge between health insurance plans for qualified workers, their spouses, and their dependent children when their health insurance might otherwise be cut off. Because of that security, COBRA has been hailed as a much-needed safety net for families in the midst of crisis, such as unemployment, divorce, or death.

Under COBRA, if you voluntarily resign from a job or are terminated for any reason other than "gross misconduct," you are guaranteed the right to continue your former employer's group plan for individual or family health insurance for up to 18 months at your own expense. In many cases, your spouse and dependent children are also eligible for COBRA coverage, sometimes for as long as three years. However, individual plans — that is, plans you buy on your own, rather than through work or an association — are not subject to COBRA law, and once you lose that coverage, you won't be able to get an extension under COBRA.

Are you eligible for COBRA?

In general, three groups of people, known as beneficiaries, are eligible for COBRA coverage: employees or former employees (retirees) in private business; their spouses; and their dependent children. One of several types of "qualifying events" must occur to trigger COBRA, as the chart below outlines. You then are eligible to buy COBRA for the maximum coverage period as determined by your beneficiary status and the qualifying event. Remember: You don't have to stay on COBRA the whole time — nor will you always be able to — if different health insurance becomes available to you.

Additionally, your spouse or any of your children may enroll in COBRA independent of your COBRA election decision. Even if you forgo COBRA, any of your qualified family members may elect to continue their health insurance benefits under your former employer's plan.

COBRA eligibility also extends to workers in state and local government, as well as to workers classified as independent contractors. However, the law grants an exemption to the District of Columbia, federal employees, certain church-related organizations, and firms employing fewer than 20 people. The IRS rules state that employers must figure part-time workers into their employee total to determine if they can claim exemption.

Even if you work at a small company that is exempt from federal law, you might not be completely out of luck. Many states have adopted their own laws, sometimes known as "mini-COBRA," that often grant broader rights in determining eligibility for coverage.

You must actually be covered under an employer health plan to be eligible for COBRA. If your employer has more than 20 workers but doesn't offer health coverage, or offers coverage only to certain groups of employees and you're not one of them, you won't be eligible for COBRA even if one of the qualifying events occurs — nor will your spouse or children be eligible.

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Your COBRA coverage ends when:

- You reach the last day of maximum coverage.
- Premiums are not paid on a timely basis.
- The employer ceases to maintain any group health plan.
- The employer goes out of business.
- You obtain coverage through another employer group health plan that does not contain any exclusion or limitation with respect to pre-existing conditions of a beneficiary. (Eligibility under a spouse's group health plan does not count.)
- A beneficiary is entitled to Medicare benefits.

Paying for COBRA

Eligibility isn't the only issue to consider when it comes to COBRA. Cost is another major factor.

If you have no pre-existing conditions and decide against COBRA, you can still consider buying individual insurance or even a short-term major medical policy to tide you over until you land a new job with health benefits.

The coverage you receive under COBRA must be identical to the coverage you had before. "An employer can't allow employees to choose a less expensive plan," However, employers can — but are not required to — give you the option of dropping such "noncore" benefits as dental and vision care. On the other hand, if you were covered by, say, three different health plans at the same time (one each for hospitalization, prescriptions, medical, etc.), you have the right to elect continuing coverage in any or all of them.

Additionally, if your former employer changes its health insurance plan for its current employees, you are entitled to receive benefits under the new plan, although the benefits may change. If your employer switches plans, you won't be able to keep the old plan.

The rules for beginning COBRA

Both you and your former employer must follow proper procedure to initiate COBRA, or else you could forfeit your rights to coverage.

The employer must notify the health plan administrator within 30 days after an employee's "qualifying event" — death, job termination, reduced hours of employment, or eligibility for Medicare.

In cases of divorce, legal marital separation, or a child's loss of dependent status, it is your or your family's responsibility to notify the health plan administrator within 60 days of the event.

Once notified, the plan administrator then has 14 days to alert you and your family members — in person or by first-class mail — about your right to elect COBRA. The IRS gets tough here: If the plan administrator fails to act, he or she can be held personally liable for breaching their duties. However, the plan administrator must have your correct mailing address. If you move, it is your (or your family's) responsibility to tell the health plan administrator.

You, your spouse, and children have 60 days to decide whether to buy COBRA. This election period is counted from the date your eligibility notification is sent to you or the date that you lost your health coverage, whichever is later. Your COBRA coverage will be retroactive to the date that you lost your benefits (as long as you pay the premium).

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During the election period when you have to choose whether to buy COBRA, you might initially decide not to, which means you waive your right to coverage. However, as long as the election period hasn't expired, you can change your mind and revoke your waiver, and COBRA coverage would then start on the day the waiver was revoked. Bear in mind that if you visit a doctor during the period you initially waived COBRA, you will not be reimbursed for that claim even if you later decide to buy COBRA. In this case, COBRA is not retroactive to the date you lost your employer-sponsored plan.

Conversely, even if you enroll in COBRA on the last day that you are eligible, your coverage is retroactive to the date you lost your job, provided you pay all the retroactive premiums.

Other COBRA tidbits

- **Premium payments.** After you elect COBRA, you have to pay the first premium within 45 days. And that first premium is likely to be high because it covers the period retroactive to the date coverage ended through your employer. Successive payments are due according to health plan requirements, but COBRA rules allow for a 30-day grace period after each due date for payment.
- **Short payment rule.** If your COBRA payment is short by an "insignificant amount" — either 10 percent or \$50, whichever is the lesser of the two — an employer must accept the short payment as payment in full, or notify you of the deficiency and allow you another 30 days from the date that you receive the notification to correct the deficiency.
- **Extensions.** Although COBRA sets specific time limits on coverage, there is nothing stopping the health plan from extending your benefits beyond the mandated coverage period.
- **Notification rights.** Because COBRA is a federal law, the U.S. Department of Labor (DOL) has jurisdiction over issues involving notification of about COBRA coverage. Employers that fail to comply with the notification rules face fines of up to \$110 for every day that no notice is sent after the deadline. In addition, the IRS can assess an excise tax against any company that does not comply with COBRA regulations.
- **New workers.** Newly hired employees must be given an initial general notice about their COBRA rights.
- **Plan description.** COBRA information must be contained in the summary of the health plan description employees must receive when they are new to the plan.
- **Switching plans.** If your employer offers an open enrollment period to active employees and you're on COBRA, you must also be given the option to switch plans during that time. You may also add new dependents (a newborn, newly adopted child, or new spouse) if your employer offers this option to active employees.
- **Conversion plans.** If the health plan offers the option of converting from a group plan to an individual policy under COBRA, you must be given that option and allowed to convert within 180 days before COBRA ends. But you'll pay individual, not group, rates, and switching to individual coverage could weaken any HIPAA protections you have.
- **Moving.** If you relocate out of your COBRA health plan's coverage area, you will lose your COBRA benefits; the employer is not required to offer you a plan in your new area.
- **Premium costs.** Your premiums can be increased if the costs of the health plan increase for everyone at the workplace, but generally they must be fixed in advance of each 12-month cycle. The plan must also allow you to pay premiums on a monthly basis if you want.
- **Premium notices.** Neither the health plan nor the employer are required to send you monthly premium notices, so make sure you pay attention to due dates.
- **Disability.** People eligible for Social Security Disability benefits may receive COBRA coverage for 29 months.

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Separate vs. "bundled" health insurance plans

If your former employer offers separate health insurance plans (dental, medical, and vision, for example), you and each of your qualified family members may choose to continue any combination under COBRA. However, if your employer sponsors one plan with multiple health insurance benefits, you must each elect all the benefits or nothing.

Health plans subject to COBRA are:

- Medical plans.
- Dental, vision, and prescription drug plans.
- Drug and alcohol treatment programs.
- Employee Assistance Plans, known as EAPs, that provide medical care such as counseling or psychological treatment.
- On-site health care, including discount or free medical services.
- Section 125 spending arrangements, also known as cafeteria plans, under certain circumstances.

Benefits not subject to COBRA are:

- Wellness programs.
- Life, disability, and long term care insurance plans, and medical savings accounts.
- EAPs that do not provide medical care.

Please note that this description/explanation is intended only as a guideline.

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