



Taking the Bite Out of COBRA

An Overview of COBRA Regulations

By Meredith Clark

There was a time when an employee was at risk of immediately losing his or her group health coverage when changing employment, going out on a leave of absence or becoming disabled. That changed in 1986 with the adoption of the federal Consolidated Omnibus Budget Reconciliation Act, commonly known as COBRA. This law originally effected only employers with 20 or more employees. However, as of 1998, California has its own law, Cal COBRA, which gives the same rights to employees of smaller organizations.

Many employees or their families who lose coverage due to termination of employment, spouse death, divorce, or other life events are eligible for COBRA as “qualified beneficiaries”. These individuals may be able to continue their coverage under your plan for a limited period of time. The responsibility for administering COBRA and notifying qualified beneficiaries of their continuation rights depends upon whether your group qualifies under federal or Cal COBRA. The major difference is that the insurance carrier is responsible for the primary administration of Cal COBRA and the employer is responsible for federal COBRA.

How do you know if you fall within Cal COBRA or federal COBRA? Generally, an organization is subject to Cal COBRA if it had 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar year and has health care through a group plan.

Organizations with 20 or more employees must follow the federal COBRA guidelines. If your group is governed by federal COBRA, you are responsible for the complex administration of and compliance with these COBRA laws.

Under both federal and Cal COBRA you are required to offer your terminating employees and/or their dependents access to your health, dental and vision plans. (Life, AD&D, Short Term Disability and Long Term Disability coverage are not continued through COBRA.)

As an employer, you are not required to contribute to the cost of continuing coverage for your COBRA participants. Even if your agency previously paid for all, or a portion of, the premium, you are not required to pay any of the COBRA costs. If you decide to administer federal COBRA in-house, you may choose to add a 2% surcharge to the monthly premium for your administrative costs. Cal-COBRA, which is administered by the insurance companies, allows insurance carriers to charge participants an additional 10% of the premium.

Although an employer's responsibilities are not as great under Cal COBRA, you must still notify your carrier and COBRA participants of specific events in a timely manner. Unfortunately, under federal COBRA, the administrative responsibilities are numerous and complex. Penalties for non-compliance are extremely severe. In addition to the fines and penalties from regulatory bodies, employees can sue you to enforce any of the coverage requirements.

The ability to continue group coverage is an important benefit to many terminating employees and their dependents. This is often due to strict medical underwriting guidelines which prevent many people from qualifying for individual health insurance policies. COBRA continuation rights are often the only way individuals can be assured of health care coverage while they move between jobs, recover from a disability or await access into the State's major risk pool. ■