

Targeted Compliance COBRA



Identifying Individuals Eligible for COBRA Continuation Coverage

Under COBRA, a group health plan must provide an opportunity for each qualified beneficiary who will lose group health plan coverage as the result of a qualifying event to elect COBRA coverage within the election period. Thus, in determining who is eligible for COBRA, you will need to understand who is a qualified beneficiary and what constitutes a qualifying event. To help you identify which individuals may be eligible for COBRA, consider the targeted action items below.

- **Identify individuals who may be qualified beneficiaries.** Only someone who falls within one of the groups below can be a qualified beneficiary:
 - An employee who was covered by a group health plan on the day before a qualifying event;
 - That employee's federally recognized spouse or dependent child who was covered by a group health plan on the day before a qualifying event;
 - In certain cases involving the employer's bankruptcy; a retired employee and spouse, a former spouse, or a dependent child; and
 - A child born to, or adopted by, a covered employee during a period of COBRA continuation coverage.

Importantly, there may be individuals who have coverage, but are not qualified beneficiaries, such as domestic partners. Therefore, you should not assume that anyone who loses coverage is qualified beneficiary.

- **Determine whether a triggering event occurred.** After determining whether an individual falls within a category of potential qualified beneficiaries, the next step is to determine whether a triggering event occurred. COBRA specifies seven triggering events that can be qualifying events if they result in a loss of coverage:
 - voluntary or involuntary termination of the covered employee's employment (except for termination due to gross misconduct);
 - reduction of hours of service of the covered employee's employment;
 - divorce or legal separation from the covered employee;
 - death of the covered employee;
 - loss of dependent child status under the generally applicable plan requirements;
 - a covered employee's entitlement to Medicare benefits; and
 - an employer's bankruptcy, but only with respect to health coverage for retirees and their families (this triggering event does not apply to plans subject to the Public Health Service Act (PHSA) (i.e., state and local government plans)
- **Determine whether a qualifying event occurred.** After determining whether a triggering event occurred, the next step is to determine whether all of the conditions of a qualifying event occurred. Under COBRA, a qualifying event occurs when all of the following conditions are met: (1) a triggering event occurred (2) that causes (or will cause) a loss of plan coverage (3) within the maximum coverage period (4) while the plan is subject to COBRA. If all four of these conditions are met, then the event is a COBRA qualifying event. Note that the triggering event must cause a loss of coverage. There are instances in which a triggering event does not (immediately) cause a loss of coverage. For example, if an individual's eligibility for major medical coverage is determined under the look-back method using rules under the Patient Protection and Affordable Care Act (ACA) and the individual has a reduction in hours while in a stability period as a full-time employee, that individual would not lose coverage at the same time as

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the reduction in hours, and thus a qualifying event would not occur at that time. It is also important to note that the coverage must be lost within the maximum COBRA coverage period. For more information on the maximum COBRA coverage period, see our Targeted Compliance Topic, [Determining the Length of COBRA Continuation Coverage](#).

The intent of this analysis is to provide you with general information. It does not necessarily fully address all your organization's specific issues. It should not be construed as, nor is it intended to provide, legal advice. Questions regarding specific issues should be addressed by your organization's general counsel or an attorney who specializes in this practice area.