



COBRA Compliance

Compliance is defined as “a state of being in accordance with established guidelines, specifications or legislation.”

There's a perception that COBRA compliance is as easy as mailing a couple of notices. However, proper COBRA compliance entails many required notices and tracking numerous time frames. The notice requirements and the work related to them are endless. Let's review what one little compliance regulation requires.

1 General Notice must be provided no later than 90 days after the:

1. Commencement of plan coverage, or
2. First date on which the administrator is required to offer continuation coverage. It must also include the plan name and contact information, and explain the importance of keeping the administrator informed of all participants' current addresses.

2 Notice to Plan Administrator.

COBRA rules state the general notice should include information on how the employee is required to notify the plan administrator of the following events: a divorce or legal separation, a child ceasing to be a dependent and a second qualifying event or disability determination by the Social Security Administration (SSA). This requirement applies to a qualified beneficiary (QB) already on COBRA and reporting these as secondary events.

3 The Notice of Unavailability.

Must be provided when a plan administrator receives a notice from a covered employee or QB regarding an event and it is determined that the individual is not entitled to continuation coverage. This notifies the individual about the COBRA ineligibility, and should be sent no later than 14 days after receipt of the qualifying event notice.

4 Qualifying Event Election Notice.

Must be mailed (first-class mail with proof of mailing recommended) when a covered employee experiences a qualifying event such as a termination of employment or reduction in work hours. Employers must notify their plan administrator within 30 days of these events; the notices must then be mailed within 14 days, for a total notice period of no more than 44 days following the event.

5 Extension Notice.

While COBRA does not specifically require an Extension Notice, the Department of Labor recommends that employers generate a notice regarding the extension of COBRA coverage. The Extension Notice should inform the QB of the new continuation coverage time frame, monthly premium rates (especially in disability cases), premium due dates and the reasons coverage can be cancelled prior to the end of the maximum coverage period.

6 Required Notice of Open Enrollment Rights.

Informs QBs of the open enrollment period. This notification includes all options available, monthly premium rates for each option and the open enrollment deadline date. Those required to receive this notification include individuals in their 60-day COBRA election period, individuals who have elected but have not yet paid during the 45-day initial COBRA payment period and individuals who have elected and paid for COBRA. This information is best sent before the open enrollment period starts. Additionally, a Notification of Rate Changes and Plan Changes is required if such changes occur at a time other than during the open enrollment period.

7 Notice of Plan Change.

ERISA requires that plan benefit changes, premium rate changes and other modifications to the plan be communicated to all plan participants, including COBRA QBs. According to the DOL, the notice of material plan and/or benefit modifications should be sent to COBRA participants within 60 days after the change has taken effect. COBRA states that notification of rate changes must be provided to QBs prior to charging them the new rate.

8 Notice of Early Termination.

Is required for any COBRA coverage that terminates before the end of the maximum coverage period. The notice must include the reason for termination and the termination date, as well as any rights the QB may have under the plan to elect alternative group or individual coverage, such as a conversion right. This notification should be sent "as soon as practicable" following the administrator's determination that continuation coverage will terminate.

9 Conversion Notice.

Is a requisite when a QB's continuation coverage ends as a result of reaching the maximum 18, 29 or 36 months of coverage. Plan administrators must notify all QBs of their right to elect an individual conversion policy, if available under the plan, within 180 days before the expiration of COBRA coverage.

10 Required Notice of Insignificant Premium Underpayment.

Informs a QB of an underpayment amount and the fact that coverage will terminate if the payment balance is not received. The plan must give the QB at least 30 days from the notice date to make the payment. COBRA states a "shortfall is not significant if it is no greater than the lesser of \$50 or 10 percent of the required amount." If the amount paid does not fall within these guidelines, then the notice and additional time is not required for the premium payment.

Easy is defined as "requiring or indicating little effort, thought, or reflection."

With the amount of notices, various times frames and procedures required with a proper COBRA compliance program, it is anything but easy. In the end, compliance may be one little word; however, in this case it carries a large burden.

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Jennifer Werner, Executive Vice President, Insurance Operations MichBusiness

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