

A Consumer Guide to Continuation of Group Health Insurance Coverage



Prepared by the
Iowa Insurance Division
Consumer Advocate
330 Maple Street
Des Moines, IA 50319
877-955-1212

<http://www.insuranceca.iowa.gov>

Last Updated on June 4, 2012

Introduction

What is Continuation of Coverage?

What happens if you currently receive health insurance from a group plan via your employer, and you suddenly lose coverage under that plan? Assuming that your employer meets specific eligibility guidelines, the employer may be required to offer you continuation of health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Iowa Law also provides continuation of coverage for smaller plans not covered by the federal law. Key differences between COBRA and state continuation of coverage will be highlighted throughout the guide.

COBRA requires continuation of coverage to be offered to the primary plan holder, as well as specified dependents of the employee should they lose health insurance coverage after a specified event occurs. The length of coverage is determined by your status under the plan (either as the employee or dependent) and the event that causes the loss of coverage.

Primary Benefits of Continuation of coverage

Instead of being forced to immediately purchase an individual plan or quickly select a new job which offers group coverage, you can remain on your old plan for a specified period of time.

Costs for continuation of coverage may be higher for an employee who leaves employment and group coverage because the employer will no longer be paying part of the cost. This may still be cheaper than an insurance quote you receive on the individual market, and at least has the benefit of a guaranteed continuation of coverage

Continuation of coverage also extends to dependents of the employee, so you don't have to worry about finding immediate health insurance coverage for your spouse and dependents immediately after suffering a loss of coverage.

In addition, COBRA continuation of coverage acts as creditable coverage under the Health Insurance Portability and Accountability Act (HIPAA). COBRA acts as a bridge to prevent a future group health plan from excluding or limiting your benefits and coverage due to a preexisting condition. As long as you have had continuous coverage within 63 days of enrolling in your new group plan, no new restrictions may be placed on your coverage.

Using this Guide

This guide should:

- 1) Provide a general explanation of continuation of coverage eligibility to determine if it applies to your health insurance plan. This includes explaining the differences between the federal COBRA provisions and Iowa's continuation of coverage.
- 2) Outline the general election notice rules and responsibilities both you and your insurance plan must follow.
- 3) Highlight the benefits covered by continuation of coverage, as well as explain how long you retain those benefits and when those benefits can be terminated.

Section A: Three Step Outline for Continuation of Coverage Eligibility

Section A will follow a specific three step outline in determining continuation of coverage eligibility in your situation. The steps are:

- 1) Your health insurance plan must be covered by COBRA.
- 2) The individual is a qualified beneficiary.
- 3) A qualifying event occurred.

Step 1

- Is my health insurance plan eligible for continuation of coverage?

There are three basic questions which must be answered to determine if your group health insurance plan is required to offer COBRA continuation of coverage

1) Is your policy within a group health plan?

You will want to ensure that the plan in question is for medical services, as COBRA only applies to insurance plans for health services. Look to see the plan covers:

- Inpatient and outpatient hospital care;
- Physician care;
- Surgery and other major medical benefits;

Additional benefits, such as vision and dental, can also be added at the discretion of your employer.

2) Is your health plan sponsored by an employer or employee organization?

If the plan is any of the following, it likely qualifies, but you will want to contact your plan administrator or review your plan documents to confirm. To determine if it is a qualifying health plan, check to see if it is:

1. Group health insurance.
2. Coverage from an Employee Organization/Union.

3) Does your employer have at least 20 employees averaged over the previous calendar year?

Part-time employees are counted as a fraction of full-time. You can add up the total number of full-time employees and the fractional numbers of part-time employees to determine if it is above 20. Although the part-time employees may not be eligible themselves for COBRA, their employment status does count toward the eligibility requirement.

What to do if your employer does not meet this requirement:

If your employer does not meet the 20 employee requirement, you may still be eligible for continuation of group health insurance under Iowa Law. The state law guarantees a 9 month continuation of benefits, and you must have been under the group health plan for the 3 months prior to any qualifying event occurring.

What happens if you are still not certain whether your former employer is required to offer continuation of coverage?

Federal and Iowa Law require health plans to give a general notice to those employees who are entitled to continuation benefits. You typically receive this notice when you were hired. If you can't locate your copy or don't believe you ever received one, contact your health plan administrator.

Step 2

- Am I a qualified beneficiary under the plan?

There are a wide variety of instances where continuation of coverage kicks in, but it's important to differentiate between the different types of qualified beneficiaries in a continuation of coverage situation. A qualified beneficiary is an individual who was covered by a group health plan on the day before the qualifying event occurred (we will get into defining a qualifying event later in Step 3). Any of the following individuals could be a qualified beneficiary:

- Employee.
- Spouse of the employee.
- Dependents/Children of the employee, including children born or adopted during the period of continuation of coverage.
- Other individuals who participate in the plan can also be qualified beneficiaries.

If using Iowa continuation of coverage, the beneficiary must have also been covered by the plan during the three months leading up to the qualifying event.

What are the different types of qualified beneficiaries?

If you are the employee whose employer provides the coverage, you are a covered employee. If you are the child or spouse of the covered employee, you are a covered dependent. This distinction is critical, as the two classes have different time periods for eligibility and different qualifying events.

Step 3

• Did a qualifying event occur?

What is a qualifying event?

A qualifying event is an event specified within COBRA regulations where an individual loses group health coverage that they previously held. If health coverage wasn't lost, COBRA doesn't apply.

What are the different types of qualifying events?

If you are the covered employee, you typically qualify for continuation of coverage via two different qualifying events:

- 1) You recently lost your group health plan due to voluntary or involuntary termination of employment for any reason other than "gross misconduct".
- 2) You recently had a reduction in hours which excluded you from being eligible to participate in the group plan.

Note that an employer's decision to no longer offer health benefits to all of their employees is NOT a qualifying event. COBRA only applies if the group health plan continues to exist, but the individual employee loses coverage or eligibility to participate.

If you are a covered dependent (either spouse or child) on the group plan, there are five common qualifying events for both spouse and children, and a single event exclusively for children which might trigger COBRA eligibility.

- 1) Termination of the covered employee's employment, with the exception of gross misconduct.
- 2) Reduction in hours worked by covered employee.
- 3) The covered employee becomes eligible for Medicare.
- 4) A divorce or separation occurs between the covered employee and the covered spouse.
- 5) The covered employee dies.

If you are under Federal COBRA: If the health plan falls under COBRA, covered dependent children also have a qualifying event if they lose dependent status under the plan rules. This qualifying event is not covered by Iowa continuation of coverage.

Section B: Election Notice and Rights

You have read the materials from Section A, and are relatively certain that you are eligible for continuation of coverage. Your plan was eligible for COBRA or lowa continuation of coverage, you or your dependents were a qualified beneficiary, and a qualifying event occurred. Determining eligibility was just the first step, now you need to ensure that you receive the coverage you are entitled to. The next step of the guide will help you understand the steps in electing your coverage.

What are the general notice requirements employers and providers must follow regarding continuation of coverage?

COBRA continuation rights within any health insurance plan will be found in the Summary Plan Description (SPD).

If you have lost your SPD, or believe that your plan never provided you with written copy, you can request a copy of your SPD. The plan administrator is required to provide a copy within 30 days of the written request. Contact the Consumer Advocate at 1-877-955-1212 if you have additional questions regarding your SPD and the general COBRA notice requirements.

The COBRA model election notice provisions typically require the plan administrator to provide an election notice within 14 days of receiving notice of the qualifying event. However, in some situations the notice might come later.

The required Election Notice must contain:

- 1) The name of the plan, address and the contact information of someone associated with the plan who can answer additional COBRA information questions.
- 2) The specific method of electing coverage.
- 3) An explanation of what will happen if coverage is not elected.
- 4) An explanation of what coverage is available, for how long it continues, and how it can be extended for a disability or by a second qualifying event.
- 5) Premium payment requirements, including due dates and grace periods.

If the plan is going to deny availability of COBRA coverage, they must send a notice titled "COBRA Notice of Unavailability of Continuation of coverage".

- This must typically be sent within 14 days of receipt of an election request.

If the plan is going to terminate COBRA coverage early, they must send a “Notice of Early Termination of Continuation of coverage”.

What are my responsibilities if a qualifying event occurs and I wish to exercise my continuation rights?

If you are under Federal COBRA: If you are the qualified employee and you suffered a termination or reduction of hours, your employer is required to provide an election notice to your plan administrator within 30 days of that event occurring. This should happen automatically, but if you believe you were entitled to an election notice and didn't receive one, contact your health plan administrator to ensure they were actually notified of the qualifying event. After your plan administrator receives notice from your employer, they have 14 days to provide you with an election notice. Once you receive the election notice, you have 60 days to elect coverage.

- If you do not elect your COBRA coverage within this 60 day period, you are no longer eligible. You are allowed to waive your COBRA rights within the 60 day period and retract that waiver if done so before the 60 day period runs. Make sure you are fully reading all materials sent to you from your plan administrator regarding election rights, especially the provisions regarding the election time period.

Be very careful before you decline COBRA coverage if you have no other insurance options lined up and you have preexisting conditions. COBRA does count as creditable coverage under the Health Insurance Portability and Accountability Act (HIPAA), so if you do become eligible for coverage under a new group plan, you will not be subject to the preexisting condition exclusion. Declining COBRA also makes you ineligible to qualify for high risk insurance under HIPIOWA until your COBRA period expires. Once you waive COBRA, you are also effectively waiving your ability to immediately participate in HIPIOWA. Please review the enrollment guide at <http://insuranceca.iowa.gov/> for a detailed review of HIPIOWA.

Under federal COBRA, if the qualified event which triggers COBRA coverage is a divorce, legal separation, or child's loss of dependent status under the plan, it is your responsibility to inform the plan administrator of this change. You typically have 60 days to do so.

Federal COBRA continuation of coverage can also be elected on an individual basis for each covered dependent. Spouses and dependent children have an independent right to elect COBRA coverage if the covered employee was terminated or suffered a decrease in hours.

If you are under Iowa continuation of coverage: The employer is required to give notice to the employee or covered individual within 10 days of termination or material modification of health insurance coverage.

An employee or member who wishes continuation of coverage must request continuation in writing to the employer or group plan holder within the ten-day period of the later of:

- a. The date of the termination OR
- b. The date the employee is given notice of the right of continuation.

Section C: Continuation Coverage Costs and Length of Coverage

Determining your plan's eligibility for continuation of coverage was just the first step. Now you might have questions regarding how long you can retain your coverage, and if you or your employer can terminate coverage prior to the guaranteed time period.

How long may I remain on the plan?

If you are under Federal COBRA: If you are the covered employee or dependent, you are eligible for 18 months of coverage from the date of election.

If you are a covered dependent, and one of the following four events apply to you, you are eligible for 36 months of coverage:

- 1) The covered employee dies.
- 2) There is a divorce/separation between the covered employee and spouse.
- 3) A covered child loses dependent status under the plan.
- 4) The covered employee becomes eligible for Medicare.

If you are under Iowa continuation of coverage: If your employer has less than 20 employees, you only get a 9 month period of continuation benefits. You also must also have been enrolled in the group plan for at least the three months prior to the qualifying event.

How much is COBRA coverage going to cost me? When is my first payment due?

If you are under Federal COBRA: The plan can charge you the full cost of the original premium, plus up to a 2% additional administrative fee. If you are currently collecting benefits under a disability extension, the plan can charge you up to 150% of the original

premium cost (this will be explained later). The employer must give you at least 45 days from the date COBRA is elected until the day your first premium is due. If are late on your subsequent premium payments, you typically receive a 30 day grace period, but you should always request the specific rules from your plan administrator.

If you are under Iowa continuation of coverage: If you have Iowa continuation of coverage, you can be charged only up to 100% of the original premium cost; you cannot be charged an additional 2% administrative fee as with COBRA.

Why is it more expensive than the premium I was previously paying when I was employed or covered under the plan?

Most employers typically completely subsidize or partially contribute money to help offset the actual costs of the premiums for their employees. Once you are no longer eligible for coverage under the group plan and have COBRA coverage, the employer is typically going to cease contributing any amount to help pay your premium. If you notice that your premium bills increased substantially, it was because your employer was originally paying for a portion of your health insurance.

If you feel that you cannot afford to pay this increased amount, you can shop around for an individual plan on the open market and compare rates. If you have preexisting conditions, an individual plan might limit coverage or increase your monthly premium amount. For more information regarding COBRA alternatives please review the enrollment guide which can also be found on the Consumer Advocate webpage at <http://insuranceca.iowa.gov/>

Are my benefits going to be reduced should I elect my continuation rights? What about the claims process should I have a claim while under continuation of coverage?

No, a qualified beneficiary is entitled to the same benefits as a similarly situated active eligible employee. This includes choices, services, and benefits. However, you will still be responsible for the same rules and limits as active eligible employees. You must pay your co-payments and deductibles, and you are still subject to the same coverage limits. If you need to file a claim under the plan, you must do so according to the procedure outlined in the plan.

What happens if I suffer a disability while I am on COBRA, and I need insurance to help cover those medical costs? Am I automatically removed from the plan after my 18 month period?

If you suffer a disability within the first 60 days of COBRA coverage under the Federal Statute, you are eligible for an additional 11 month extension of benefits under the plan. There are a few important rules that must be followed, though.

- 1) The Social Security Administration must determine that the disability started sometime before the 60th day of COBRA coverage.

- 2) If you are the disabled qualified beneficiary, you must notify the plan within 60 days of the later of:
 - a. The Social Security Administration issues their determination of disability.
 - b. The qualifying event occurs.
 - c. The date that the qualified beneficiary would lose coverage due to the qualified event.
 - d. The date the qualified beneficiary receives the COBRA election notice.
- 3) The disability must last until at least the end of the 18 month period. If your disability is only temporary and will end prior to your eligibility expiring, you are not eligible for the 11 month extension.

In addition, although you are only originally required to pay up to 102% of the original premium cost, the plan may increase that amount to 150% of the premium rate if a disability extension occurs.

Section D: Early Termination of Continuation Benefits

Although you are guaranteed a specific time period of eligibility under both Federal and Iowa law, there are a few scenarios in which an employer can terminate your continuation of coverage before that term expires. The following four circumstances are applicable in both COBRA and Iowa continuation of coverage:

- 1) Your non-payment of premiums past the grace period as defined within your plan. If your plan does not expressly state the permitted grace period for non-payment, please contact your plan administrator to receive this information.
- 2) The termination of health benefits by your employer for all active employees.
 - a. Note: If the employer switches over to a new group plan which still provides coverage to active employees, the qualified beneficiary may retain enrollment rights.
- 3) The qualified beneficiary begins coverage under a new group plan.
 - a. Note: The new plan must not contain any preexisting condition exclusions which would limit the qualified beneficiary's access to medical care or increase their costs.
- 4) Eligibility for Medicare.
 - a. Note: Remember that eligibility for Medicare can act as a qualifying event for a covered dependent. Although the individual who just turned 65 might

have their rights terminated, their dependents can elect continuation of coverage under the existing group plan.

In addition, federal COBRA allows early termination of benefits if the qualified beneficiary commits fraud against the plan.

Section E: Additional Information

If you have additional comments or questions about the content of this guide, please call the Iowa Insurance Division Helpline directly at 1-877-955-1212. You may also email the Consumer Advocate Office at insuranceca@iid.iowa.gov or visit <http://insuranceca.iowa.gov/> for additional information and resources.

For additional information regarding Federal COBRA, please contact the United States Department of Labor, Employee Benefits Security Administration (EBSA) at 1-866-444-3272, or visit their website at site at www.dol.gov/ebsa. The Iowa Insurance Division can also assist you in connecting with a representative from EBSA regarding your COBRA questions. Please contact our helpline at 1-877-955-1212 to request additional assistance.

To review the statutory text of Iowa's Continuation Coverage, please visit:

<http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

Iowa Continuation of Coverage can be found in Iowa Code Chapter 509B. The Iowa Insurance Division can also assist you in finding citations to specific rules and regulations relating to Iowa's continuation of coverage. Please call our helpline at 1-877-955-1212 for more information.