



COBRA New York



Comparison of Federal and New York Continuation Laws

| | FEDERAL (COBRA) | NEW YORK |
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| Covered Employers and Plan Coverage | <p>Group health plans maintained by private-sector employers with 20 or more employees, employee organizations, or state or local governments.</p> <p>Coverage must be identical to that available to similarly situated beneficiaries who are not receiving COBRA coverage under the plan (generally, the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage).</p> | <p>Each group health plan that has fewer than 20 full-time employees and provides hospital, surgical or major medical benefits must provide continuation coverage to the employee or member, spouse and dependent children. Self-insured ERISA plans are not subject to state continuation coverage requirements.</p> <p>State continuation coverage does not apply to self-funded plans, dental-only plans, vision-only plans or prescription-only plans</p> <p>Group health plans that are subject to COBRA must also provide additional continuation coverage pursuant to state law to certain qualified beneficiaries. If a qualified beneficiary is eligible for less than 36 months of COBRA coverage and exhausts the COBRA coverage available, the group health plan must provide up to 36 months of coverage from the date the COBRA coverage began.</p> |



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| <p>Qualified Beneficiaries (Employee / Dependents)</p> | <p>An employee, spouse or dependent child covered by a group health plan on the day before a qualifying event.</p> <p>In certain cases, a retired employee, the retired employee's spouse and the retired employee's dependent children may be qualified beneficiaries.</p> <p>In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary.</p> <p>Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.</p> | <p>Individual employees and dependents who are not eligible for COBRA may qualify for state continuation coverage upon the occurrence of a qualifying event.</p> <p>Dependents who would otherwise lose coverage due to losing dependent status under the plan may be eligible to continue coverage through age 29 if they are:</p> <ul style="list-style-type: none"> • Unmarried; • Not covered by or eligible for an employer-sponsored plan as a covered employee; • Living, working or residing in New York State or the insurer's coverage area; and • Not eligible for Medicare. <p>Employers are not required to pay for this extended coverage for dependents.</p> |
| <p>Continuation Period</p> | <p>18 months - COBRA beneficiaries generally are eligible for group coverage during a maximum of 18 months for qualifying events due to employment termination or reduction of hours of work.</p> <p>29 months - Disability can extend the 18-month period of continuation coverage for a qualifying event that is a termination of employment or reduction of hours. If certain requirements are met, the entire family qualifies for an additional 11 months of COBRA continuation coverage. Plans can charge 150% of the premium cost for the extended period of coverage.</p> <p>36 months - Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.</p> <p>36 months - Under COBRA, participants, covered spouses and dependent children may continue their plan coverage when they would otherwise lose coverage due to divorce (or legal separation) for a maximum of 36 months.</p> | <p>36 months – Employees and dependents are eligible for a maximum continuation period of 36 months due to a loss of coverage because of termination of employment or reduction in hours.</p> <p>36 months – Dependents with certain qualifying events such as: a change in dependent status; employee's death; divorce; or Medicare entitlement may permit a dependent to be eligible for a maximum continuation period of 36 months.</p> <p>36 months – Employees and dependents who have exhausted COBRA coverage of less than 36 months are eligible for up to 36 months of continuation coverage from the date COBRA coverage began.</p> |

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| <p>Qualifying Events</p> | <p>Qualifying Events for Employees:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of employment for reasons other than gross misconduct (18 months) • Reduction in the number of hours of employment (18 months) <p>Qualifying Events for Spouses:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months) • Reduction in the hours worked by the covered employee (18 months) • Covered employee's becoming entitled to Medicare (36 months) • Divorce or legal separation of the covered employee (36 months) • Death of the covered employee (36 months) <p>Qualifying Events for Dependent Children:</p> <ul style="list-style-type: none"> • Loss of dependent child status under the plan rules (36 months) • Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months) • Reduction in the hours worked by the covered employee (18 months) • Covered employee's becoming entitled to Medicare (36 months) • Divorce or legal separation of the covered employee (36 months) • Death of the covered employee (36 months) | <p>Qualifying Events for Employees:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of employment; termination of plan participation; reduction in hours worked (36 months) <p>Qualifying Events for Spouses:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of the covered employee's employment; termination of plan participation; reduction in hours worked by covered employee (36 months) • Covered employee becomes eligible for Medicare (36 months) <p>Qualifying Events for Dependent Children:</p> <ul style="list-style-type: none"> • Loss of dependent child status under the plan rules (36 months) (note special rules for certain dependents able to continue coverage through age 29) • Voluntary or involuntary termination of the covered employee's employment; reduction in hours worked by covered employee (36 months) • Covered employee's becoming entitled to Medicare (36 months) • Divorce or legal separation of the covered employee (36 months) • Death of the covered employee (36 months) |
| <p>Eligibility</p> | <p>To be eligible for COBRA coverage, must have been enrolled in employer's health plan before the qualifying event and health plan must</p> | <p>Same as COBRA; however, if an individual is eligible for COBRA coverage, state continuation</p> |

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| | <p>continue to be in effect for active employees. COBRA continuation coverage is available upon the occurrence of a qualifying event that would, except for the COBRA continuation coverage, cause an individual to lose his or her health care coverage.</p> | <p>coverage is generally not available (unless the individual was entitled to COBRA for less than 36 months and exhausted the available COBRA coverage).</p> |
| <p>Notice Requirements</p> | <p>Health plan administrators must provide an initial general notice when group health coverage begins.</p> <p>When a qualifying event occurs, health plan administrators must provide an election notice regarding rights to COBRA continuation benefits to each qualifying beneficiary who loses plan coverage in connection with the qualifying event.</p> <p>Employers must notify their plan administrators within 30 days after an employee's termination or after a reduction in hours that causes an employee to lose health benefits.</p> <p>The plan administrator must provide notice to individual employees of their right to elect COBRA coverage (election notice) within 14 days after the administrator has received notice from the employer.</p> <p>Employee must respond to this notice and elect COBRA coverage by the 60th day after the written notice is sent or the day health care coverage ceased, whichever is later. Otherwise, employee will lose all rights to COBRA benefits.</p> <p>Spouses and dependent children covered under such health plan have independent rights to elect COBRA coverage upon employee's termination or reduction in hours.</p> | <p>Employer is required to issue written notice to employee, including the date of termination and the date on which employer-provided benefits are cancelled.</p> <p>Written notice is required for all terminations and for all employees. Notice must be sent within five (5) working days of the termination via first class mail.</p> <p>Employees must submit the election of continuation coverage along with the first premium within 60 days of benefits termination.</p> |
| <p>Termination of Coverage</p> | <p>Coverage begins on the date that coverage would otherwise have been lost by reason of a qualifying event and will end at the end of the maximum period. It may end earlier if:</p> <ul style="list-style-type: none"> • Premiums are not paid on a timely basis. • The employer ceases to maintain any group health plan. • After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of the beneficiary. However, if other group health coverage is obtained prior to the COBRA election, COBRA coverage may not be | <p>Coverage begins on the date that it would otherwise have been lost by reason of a qualifying event and ends when the maximum period of continuation coverage has elapsed.</p> <p>Coverage may end earlier if:</p> <ul style="list-style-type: none"> • The plan is terminated and not replaced by the employer; • Payments are not made on time; • The qualified beneficiary becomes entitled to Medicare; or |

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| | <p>discontinued, even if the other coverage continues after the COBRA election.</p> <ul style="list-style-type: none"> After the COBRA election, a beneficiary becomes entitled to Medicare benefits. However, if Medicare is obtained prior to COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election. | <ul style="list-style-type: none"> The qualified beneficiary becomes covered under another group health plan that does not limit coverage for pre-existing conditions. |
| Conversion Rights | <p>Some plans allow participants and beneficiaries to convert group health coverage to an individual policy. If this option is generally available from the plan, a qualified beneficiary who pays for COBRA coverage must be given the option of converting to an individual policy at the end of the COBRA continuation coverage period. The option must be given to enroll in a conversion health plan within 180 days before COBRA coverage ends. The premium for a conversion policy may be more expensive than the premium of a group plan, and the conversion policy may provide a lower level of coverage. The conversion option, however, is not available if the beneficiary ends COBRA coverage before reaching the end of the maximum period of COBRA coverage.</p> | <p>Must allow eligible employees and dependents the right to convert to individual coverage. Individuals must have been covered for at least three months when coverage is terminated. Eligible individuals must apply within 45 days of coverage termination to the eligible for conversion.</p> |
| Other | | <p>Special rules apply for military reservists, disabled persons, students on medical leave and persons with AIDS.</p> |
| Applicable Statutes | <p>IRC § 4980B, ERISA §601 <i>et seq.</i>, 29 CFR §§ 2590.606–1 through 2590.606–4.</p> | <p>NY Ins. Code Articles 32, 42, 43. NY Labor Code § 217.</p> |
| Government Agency Contact | <p>Departments of Labor and Treasury (private sector plans) and Department of Health and Human Services (public sector plans). More information on COBRA coverage is available from the Department of Labor at: www.dol.gov/dol/topic/health-plans/cobra.htm.</p> | <p>New York State Insurance Department 1-800-342-3736</p> |