

# CONTINUATION OF COVERAGE (COBRA)

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) requires that employers provide for the temporary continuation of group health coverage to "Qualified Beneficiaries" enrolled in the Plan, whose coverage ends as a result of a specified "Qualifying Event". A Qualified Beneficiary's coverage under COBRA will generally be identical to the coverage that he/she had immediately before the Qualifying Event. Any modification to the Plan that affects active employees will also affect COBRA participants. Qualified Beneficiaries will have the same enrollment and election change rights as active employees. For additional information on COBRA continuation coverage, rights, and obligations, contact your employer or Administrative Enterprises, Inc., the Claims Administrator.

This Article serves as notice to all Plan Members of their rights and obligations under the Federal COBRA continuation of coverage regulations.

## **QUALIFIED BENEFICIARY**

Active employees and their spouses and dependent children become Qualified Beneficiaries if they were covered under this Plan on the day preceding a "Qualifying Event." A child who is born to or who is placed for adoption with a Qualified Beneficiary during a period of COBRA continuation can be enrolled in this Plan for the time frame remaining for any other dependents covered under COBRA.

## **QUALIFYING EVENT**

A Qualifying Event occurs for a Covered Employee and his/her Covered Dependents:

- a) If the employee is terminated for any reason other than gross misconduct;
- b) If the employee is made ineligible due to a reduction in work hours which puts him/her below the minimum hour requirements stated in the eligibility section of the Plan.

A Qualifying Event also occurs for a Covered Spouse and Covered Dependent Children when it is due to:

- a) Death of the Covered Employee;
- b) Divorce or legal separation from the Covered Employee;
- c) The Covered Employee becomes entitled to Medicare;
- d) The Covered Dependent no longer satisfies the Plan's definition of an eligible dependent.

## **NOTIFICATION AND ELECTION**

The employer must notify the employee of the right to continued coverage when the employee is first covered under the Plan (which is included in the new employee information packets), and the information must be included in the Summary Plan Description.

The Covered Employee or Qualified Beneficiary must notify their employer and the Claims Administrator in writing of a marriage, a divorce, a legal separation or the addition of a child, within thirty-one (31) days of the event. The Plan must be notified within sixty (60) days when a child loses their dependent status, or when a Qualified Beneficiary becomes eligible for Medicare. Failure to provide notification within the required time limits will result in loss of COBRA rights. The Employer/Claims Administrator then must notify the appropriate Qualified Beneficiaries of their right to continue coverage within fourteen (14) days. Notice by first-class mail to the beneficiary's last known address satisfies this requirement.

The Covered Employee or Qualified Beneficiary must make the decision to continue coverage and return completed election form within sixty (60) days of the Qualifying Event or within sixty (60) days of the date the notification of COBRA rights was provided, whichever occurs later, or else the individual forfeits their right to COBRA coverage. A parent or legal guardian may elect COBRA coverage for a minor child.

## **DURATION OF COVERAGE**

The maximum period of continued coverage will be as follows (subject to modifications and changes in the Federal COBRA regulations):

- a] Employees and Qualified Beneficiaries who lose their coverage due to employment termination (for other than gross misconduct) or reduction of hours worked that makes them ineligible for coverage, are allowed continuation of coverage for a maximum period of eighteen (18) months.

If a Covered Employee or Covered Dependent is entitled to the eighteen (18) months of COBRA, that period can be extended for an additional eleven (11) months if a Qualified Beneficiary is determined to be entitled to Social Security disability benefits. The eleven (11) month extension is available to all the Qualified Beneficiaries in the family who have elected COBRA coverage (not just the disabled person). The following conditions must be satisfied:

- 1) The disability occurred on or before the start of COBRA continuation coverage, or occurs within the first sixty (60) days of COBRA continuation coverage; and
- 2) The disabled person receives a determination from Social Security that they are entitled to disability income benefits, and this determination is received before or during the original eighteen (18) month COBRA period; and
- 3) The disabled person notifies the Plan within sixty (60) days of receiving the determination of disability from Social Security.

This extended period of COBRA continuation coverage will end at the **earlier** of:

- 1) The end of twenty-nine (29) months from the date of the qualifying event; or
- 2) The date the disabled person becomes entitled to Medicare; or
- 3) The date Social Security determines the individual is no longer considered disabled under Title II or XVI of the Social Security Act. Note: The disabled person is required by law to notify the Plan Administrator within thirty (30) days of any change in disability status.

- b] Qualified Beneficiaries due to any other Qualifying Event are allowed a continuation of coverage for a maximum period of thirty-six (36) months.
- c] If the employee's qualifying event is termination of employment or reduction of hours, and it occurred within eighteen (18) months of becoming entitled to Medicare, the COBRA coverage period for the qualified dependents will be either eighteen (18) months from the termination of employment or thirty-six (36) months from the earlier Medicare entitlement date, whichever is longer. If Medicare entitlement occurred more than eighteen (18) months before termination of employment, this rule does not apply.
- d] If an individual was covered under Medicare due to End Stage Renal Disease (ESRD) at the time of the Qualifying Event, the Qualified Beneficiary would be eligible for COBRA for the full time allowed by law, however Medicare would become primary on the thirty-first (31st) month of the Medicare eligibility. If the COBRA participant becomes eligible for Medicare due to ESRD after their COBRA effective date COBRA would terminate on the date Medicare becomes effective.

**Second Qualifying Event:** If an individual experiences more than one Qualifying Event, the maximum period of coverage will be calculated from the date of the earliest Qualifying Event, but will be extended to the full thirty-six (36) months if required by the subsequent Qualifying Event.

### **COBRA and FMLA**

An FMLA leave does not make a Covered Person eligible for COBRA coverage. Whether or not coverage is lost because of nonpayment of premium during an FMLA leave, the Covered Person may be eligible for COBRA on the last day of the FMLA leave, which is the earliest to occur of:

- a) When the employee informs their employer that he/she is not returning at the end of the leave; or
- b) At the end of the leave, assuming the employee does not return; or
- c) When the FMLA entitlement ends.

For the purpose of an FMLA leave, the employee and his/her covered dependents will be eligible for COBRA as described above only if:

- a) The employee and/or his/her dependents were covered under this Plan on the day before the leave commenced (or became covered during the FMLA leave); and
- b) The employee does not return to employment at the end of the FMLA leave; and
- c) The employee and/or his/her dependents lose coverage under this Plan before the end of what would be the maximum COBRA continuation period.

### **COVERAGE TERMINATION**

Coverage under COBRA will cease on:

- a) The last day of the month for which premiums have been paid;
- b) The date the Qualified Beneficiary becomes covered under another group health plan (whether as an employee or otherwise) provided that the other group plan does not contain an exclusion or limitation with respect to any pre-existing condition of such individual. In the event a pre-existing condition limitation applies, all Qualified Beneficiaries can remain on this Plan's continuation of coverage;
- c) The date the Qualified Beneficiary becomes entitled to Medicare benefits;
- d) The last day of the maximum period of continuation the Beneficiary qualified for;
- e) The date the employer ceases to maintain any group health plan for any employee;
- f) The 30th day following the month in which SSA determines the Qualified Beneficiary is no longer disabled, for those on the extended eleven (11) month continuation of coverage.

Once continuation of coverage begins the employer must be notified in writing if the Qualified Beneficiary is no longer eligible for continuation of coverage or no longer wishes to continue coverage.

### **COST OF COBRA CONTINUATION OF COVERAGE**

The cost of continuation of coverage under COBRA is determined by the Employer and is paid by the Qualified Beneficiary. If the qualifying individual is not disabled, the applicable premium cannot exceed 102% of the Plan's cost of providing coverage. The cost during a period of extended continuation of coverage due to a disability cannot exceed 150% of the Plan's cost of coverage.

- a) The employee or the Qualified Beneficiary must make the initial payment within forty-five (45) days of notifying the Plan Administrator of their election to continue coverage. The initial payment must include all monthly premiums due back to the date regular coverage terminated.
- b) Future payments must be made within thirty (30) days of the scheduled due date. The due date for COBRA premiums is the first day of each month.
- c) Rates and payment schedules are established by your employer and may change when necessary due to Plan modifications.
- d) The cost to continue coverage is computed from the date coverage would have normally ended due to the Qualifying Event.
- e) Failure to make the first payment within forty-five (45) days or any subsequent payment within thirty (30) days of the established due date will result in the permanent cancellation of continuation coverage. Coverage will terminate retroactively to the last day of the month for which the last premium was paid.
- f) When a premium check is received timely, and that check subsequently is not honored by the bank (i.e.: the check bounces due to insufficient funds), the premium will not be treated as timely paid. The Qualified Beneficiary will be allowed to correct the payment provided it is done within the original thirty (30) day period following the premium due date.
- g) Payment of benefit claims filed during the sixty (60) day COBRA election period and the period

before receipt of the first COBRA premium payment by an individual eligible to make an election will be denied by the Plan until the individual both timely elects COBRA continuation coverage and pays the first required COBRA premium. Once a timely election is made and required premium payments are received, previously denied claims will be processed as if coverage had not been terminated. These benefit claims will not be paid if timely COBRA continuation coverage election and premium payments are not made.

h] Legislative changes introduced in the American Recovery and Reinvestment Act (ARRA) as amended by the Department of Defense Appropriations Act included a provision to provide reduced COBRA premiums for "Assistance Eligible Individuals". This legislation provides for a sixty-five percent (65%) reduction in premium for a maximum period of fifteen (15) months for plan members who experience a COBRA-qualifying event between September 01, 2008 and the current amended termination date passed by Congress to Subsection (a)(3)(A) of Section 3001 of Division B of the American Recovery and Reinvestment Act of 2009. To be considered an "Assistance Eligible Individual," plan members are required to meet **all** of the following requirements:

- You must lose coverage under this Plan as a result of an involuntary termination other than gross misconduct; and
- The loss of coverage must occur between September 01, 2008 and the current amended benefit termination date as passed by Congress; and
- You must timely elect to continue your benefit through COBRA; and
- You must not be eligible for Medicare; and
- You must not be eligible for coverage under any other group health plan, such as a health plan sponsored by a new employer or your spouse's health plan.

An employer-imposed reduction of hours, which prompts a voluntary termination of employment, may be a qualifying event. If a reduction of hours occurring after September 1, 2008 is then followed by an involuntary termination of employment occurring after March 2, 2010, plan members may then qualify for a second COBRA election period and eligibility for the premium reduction benefit. This second election period will end on the current amended termination date as passed by Congress. For further information about ARRA or to determine whether you are an Assistance Eligible Individual, please contact the COBRA Administrator.