



**BOOT  
CAMP**



**Glenda L. Hodge**

Compliance Consultant

Employee Benefits Corporation

The material provided in this webinar is by Employee Benefits Corporation and is for general information purposes only. The information does not constitute legal advice and may not be relied upon by anyone as such. Nor may the information be disseminated in any form.

Employee Benefits Corporation

Start Here | Brokers | Employers | Participants | Log In

HOME | PRODUCTS | SUPPORT | EDUCATION | ABOUT US | QUICK FORMS

Quick Refe 2017-2018

- Compliance Buzz
- News Center
- Webinars
- Videos
- Keeping Up With Health Care Reform
- Calculators

Compliance Buzz

### Tax Reform and Tax Advantaged Benefits

After months of debate on tax reform, Congress passed the "Tax Cuts and Jobs Act" (H.R. 1) to overhaul the tax code. Items of interest for tax advantaged benefits include the dependent care flexible spending account, adoption assistance, education assistance programs, transportation plans, and the individual mandate under the ACA.

With implementation starting in January, the impact of "Tax Cuts and Jobs Act" would be felt all throughout early 2018. Tax reform legislation removes the ACA's individual mandate requirement for months beginning after 12/31/18 and onward. [Read more >](#)

Download our Enrollment Toolkit | View Our Webinars | Health Benefits 101 | What are Documentation?

© 2018 Employee Benefits Corporation 3

## What we covered in Part I:

**BOOT  
CAMP**

- Introduction to COBRA Continuation Coverage
- Employer and Plans Subject to COBRA
- COBRA Initial Notice
- Triggering a COBRA Obligation
- Notification of Qualifying Event
- COBRA Election Notice
- Notice of Unavailability of COBRA Coverage



## COBRA Part II: Maintaining COBRA Coverage



### Today's Agenda:

- How to Calculate the COBRA premium
- How does a Qualified Beneficiary elect and pay
- How long can an individual stay on COBRA
- More Notices
- What Happens Next? Preview of Part III



## How to Calculate the COBRA premium

## How to Calculate the COBRA Premium

- **Applicable premium**
  - Qualified Beneficiary (QB) can be charged up to 102% of applicable premium for active employees during original 18 months
  - Same premium must apply to all similarly situated QBs
  - QB can be charged up to 150% during disability extension
    - **So long as disabled individual is covered under the plan**

## How to Calculate the COBRA Premium

- **Applicable premium**
  - QB can be charged up to 150% during disability extension
    - So long as disabled individual is covered under the plan
    - If disabled individual is not covered, then only 102% can be charged
      - Example:
        - » Mike terminates employment but does not elect COBRA
        - » His wife Sara elects COBRA for herself and their son Sam
        - » The family gets the extension because Mike is disabled
        - » Since Mike is not covered, the plan can only charge 102%

## How to Calculate the COBRA Premium

- **Determining Factors**
  - Insured Plan
  - Self-funded Plan
  - Plan or Coverage Options
  - Age Rated
  - Community Rated
  - Coverage Type

## How to Calculate the COBRA Premium

- **Insured Plans**
  - 100% of premium cost from list bill from carrier
  - Affordable Care Act (ACA) fees can be passed along if:
    - **If carrier includes in cost of premium for active employees**
  - COBRA allows employer to charge additional 2% administrative fee during original 18 months
  - COBRA allows employer to charge additional 150% during disability extension
    - **So long as disabled individual is covered under the plan**

## How to Calculate the COBRA Premium

- **Applicable Premium for Health Care FSA and HRA**
  - Health Flexible Spending Accounts (FSAs) and Health Reimbursement Arrangements (HRAs) are group health plans
    - **Employee, spouse and any dependent children can be QBs**
    - **Each QB has an independent right to elect coverage**
    - **Coverage level in effect on day before the event is available to each QB**

## How to Calculate the COBRA Premium

- **Applicable Premium for Health Care FSA and HRA**
  - Health Care FSA
    - **Employee event**
      - Any payroll deductions not yet collected plus
      - A pro-rated amount of employer contributions for remainder of plan year
      - Can account for partial month following Qualifying Event Date or split evenly among remaining months in plan year

## How to Calculate the COBRA Premium

- **Applicable Premium for Health Care FSA and HRA**
  - Health Care FSA
    - **Spouse or dependent event**
      - Multiple methods for handling this as it causes “mushrooming”
      - Must develop method for charging a reasonable premium with regards to the value of the benefit

## How to Calculate the COBRA Premium

- **Applicable Premium for Health Care FSA and HRA**
  - HRA
    - Calculated using actuarial methods the same as a self-funded health plan, or
    - Calculated using a past cost method after the first year
    - Based on the level of coverage (Single, 2-Person, Family)
    - Separate election rights apply

## How to Calculate the COBRA Premium

- **Applicable Premium for Health Care FSA and HRA**
  - HRA
    - **Example using past claims history:**
      - Employer A has an HRA that reimburses up to \$2,000 of the single plan deductible or up to \$4,000 of the family plan deductible each year
      - Prior plan utilization determines that average reimbursement was 25% of the maximum benefit available



## How to Calculate the COBRA Premium

- **Applicable Premium for Health Care FSA and HRA**
  - HRA
    - **Example using past claims history:**
      - Applicable premium will be \$41.67 per month for a single participant ( $\$2,000 / 12 \text{ months} \times 25\% = \$41.67$ ) adjusted for inflation
      - Applicable premium will be \$83.33 per month for a family participant ( $\$4,000 / 12 \text{ months} \times 25\% = \$83.33$ ) adjusted for inflation

## How to Calculate the COBRA Premium

- **Changing the Premium**
  - Determination Period
    - **Plans must determine, in advance the applicable premium for a 12 month determination period that can coincide with:**
      - Annual Open Enrollment
      - Insurance Renewal

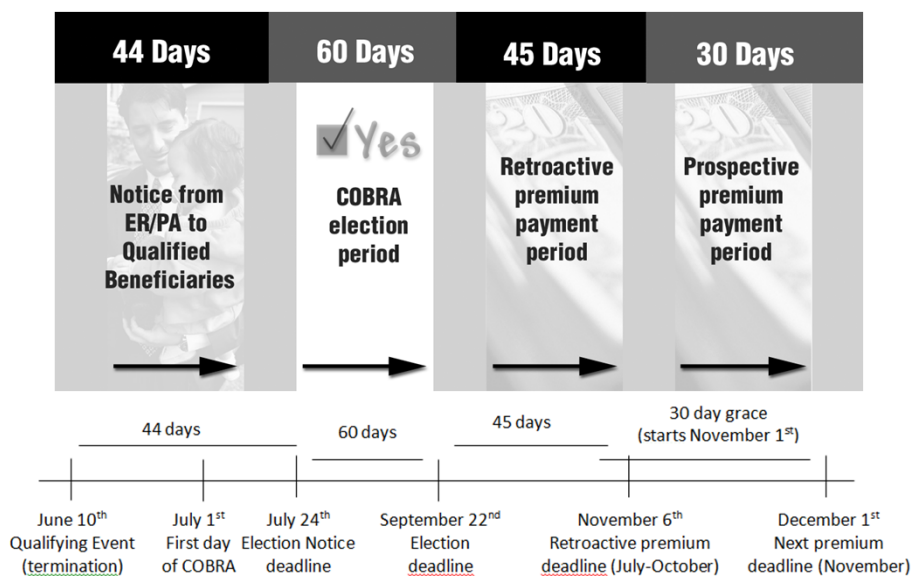
## How to Calculate the COBRA Premium

- **Changing the Premium**
  - Determination Period
    - **Permitted Premium Changes during Determination Period**
      - Increases up to the maximum permitted level
      - Charging for the disability extension
      - Changes in coverage level
      - Changes in plan or carrier
      - Correction of administrative errors (under or overcharging)



How does a Qualified Beneficiary elect and pay

## How does a Qualified Beneficiary elect and pay



© 2018 Employee Benefits Corporation

21

## How does a Qualified Beneficiary elect and pay

- **QB elects by:**
  - Returning the Election Notice within 60 days
  - Paying retroactive premium payment within 45 days of returning Election Notice
- **COBRA Administrators then:**
  - Contacts carriers to reinstate QB
  - Often sends QB “payment coupons” to use when making COBRA premium payments (not required)

© 2018 Employee Benefits Corporation

22

## How does a Qualified Beneficiary elect and pay

- **Paying the premium**

- No requirement that the premium be paid by the QB

- **Plans must accept premium payments on behalf of a QB**

- **Examples:**

Parent

Union Strike Fund

Non-Profit

Ex-spouse

State Government

Employer

Legal Representative

Another Insurer

Hospital

## How does a Qualified Beneficiary elect and pay

- **Paying the premium**

- Plan can determine acceptable payment

- Examples:

Check

Electronic Funds Transfer (EFT)

Money Order

Cafeteria Plan

Credit Card

Severance Payment

## How does a Qualified Beneficiary elect and pay

- **Paying the premium**
  - Employers required to allow 30-day grace period from due date to pay the COBRA premiums
    - **Any variance from the law should be approved by insurance carrier**
  - No requirement for employer to send a Late Payment Notice if individual does not pay by the first of the month

## How does a Qualified Beneficiary elect and pay

- **Paying the premium**
  - Insignificant Shortfall
    - **COBRA regulations allow an employer to accept a payment from a QB that is short by an insignificant amount as payment in full**
    - **Insignificant amount is the lesser of 10% of the premium or \$50.00**
    - **If employer does not accept as payment in full, employer must allow an extra 30-day grace period for the QB to pay the shortfall**



## How long can an individual stay on COBRA

## How long can an individual stay on COBRA

- **COBRA coverage length is determined by the event**
  - 18-month maximum coverage period events include:
    - **Voluntary termination of employment**
    - **Involuntary termination of employment**
    - **Reduction in hours**
  - Covered employee only ever receives 18 months maximum unless he or she is eligible for the 11-month disability extension

## How long can an individual stay on COBRA

- **COBRA coverage length is determined by the event**
  - 36-month maximum coverage only affects the spouse and dependents of the covered employee
  - 36-month maximum coverage period events include:
    - **Death of the covered employee**
    - **Divorce or legal separation\***
    - **Employee's entitlement to (enrolled in) Medicare\***
    - **Loss of dependent status**

\*Event must cause a loss of coverage to be a Qualifying Event

## How long can an individual stay on COBRA

- **COBRA can be extended**
  - Disability extension
    - **For QB to qualify for disability extension, there are strict requirements that must be met**
      - Social Security Administration determines the individual to be disabled prior to the qualifying event date or within 60 days after
      - A copy of the determination letter must be sent to the Plan Administrator or COBRA Administrator within 60 days of receipt and before the original 18-month coverage period has expired

## How long can an individual stay on COBRA

- **COBRA can be extended**
  - Multiple event
    - **Only affects the spouse and dependents of the covered employee**
    - **36-month event occurring within original 18-month coverage period grants 18 additional months for:**
      - Death of the covered employee
      - Divorce or legal separation
      - Loss of dependent status
    - **If Medicare entitlement is prior to Qualifying Event, total of 36 months from employee's Medical entitlement date**

## How long can an individual stay on COBRA

- **COBRA terminates sooner if:**
  - QB fails to make timely premium payment
  - Employer ceases to provide a group health plan
  - QB becomes covered under another group health plan
  - QB becomes entitled to Medicare after electing COBRA
  - During the 11-month disability extension, the Social Security Administration determines the QB is not disabled
  - Carrier terminates for cause (e.g., submission of fraudulent claims)





## More Notices

## More Notices

- **COBRA Initial Notice (covered in Boot Camp Part I)**
- **Notification of Qualifying Event (covered in Boot Camp Part I)**
- **COBRA Election Notice (covered in Boot Camp Part I)**
- **Notice of Unavailability of COBRA Coverage (covered in Boot Camp Part I)**
- **Notice of Open Enrollment Rights**
- **Summary Plan Description**
- **Summary of Material Modifications**

## More Notices

- Premium Change
- Notice of Insignificant Premium Shortfall
- Extension Notice
- Conversion Notice
- Notice of Early Termination

## More Notices

- **Notice of Open Enrollment Rights**
  - Must be sent to QBs during active employees' open enrollment
  - QBs must be offered same options as active employees for all COBRA-eligible benefits

## More Notices

- **Summary Plan Description (SPD)\* and Summary of Material Modifications (SMM)**
  - Plan Administrator is responsible for providing a SPD within 120 days of when the Plan first becomes effective
  - No later than the earlier of 90 days after the date the covered employee and/or spouse first becomes covered under the Plan
  - SMM is distributed whenever there is a material change

\*The benefit booklet from the carrier may not satisfy the SPD requirement under ERISA.

## More Notices

- **Premium Changes**
  - Plan Administrator must notify QBs of premium cost changes
- **Notice of Insignificant Premium Shortfall**
  - A COBRA premium payment that is short by an insignificant amount must be treated as payment in full unless the Notice of Insignificant Premium Shortfall is sent
  - Notifies QB that they have 30 days from the date of the Notice to make up the short fall

## More Notices

- **Extension Notice**

- Notifies a QB that their COBRA coverage has been extended due to

- **Disability (additional 11 months)**
- **A multiple qualifying event (additional 18 months)**
- **Medicare entitlement (36 months from entitlement date)**

## More Notices

- **Conversion Notice**

- Sent to QBs to inform them the COBRA period is coming to an end and whether conversion is available for the benefit plans the QBs are covered by

- Conversion occurs when insurance policy allows the QBs to convert from a group policy to an individual policy

- Sent out 180 days prior to the end of COBRA to give any QBs interested in conversion ample time to complete this process

## More Notices

- **Notice of Early Termination**
  - When COBRA coverage terminates before the maximum coverage period, the plan administrator must provide a written notice of termination to each affected QB



## Preview of Part III: COBRA & Other Coverage

## **BOOT CAMP**

### In Part III, We Will Cover:

- Medicare Background
- Medicare as Cause for Early Termination
- Medicare as Secondary Event
- COBRA and Paid Benefits
- Alternative coverage

## Questions?

**Thank you for attending!**

Any questions can also be addressed by e-mail or phone:

Compliance Department

(800) 346 -2126

[compliance@ebcflex.com](mailto:compliance@ebcflex.com)

Visit our online blog:



<http://www.ebcflex.com/NewsCenter/ComplianceBuzz.aspx>