

**COBRA Boot Camp Part III Q&A** – the following questions were asked during the two webinar sessions in August 2018

Q. If someone is eligible and enrolled for Medicare parts A and B effective 6/1 and chooses to enroll in supplemental Medigap coverage effective 8/1, is the 8/1 date considered a QLE date or is it only the 6/1 date to come off of group coverage?

**A. The qualifying event date is based upon reduction in hours or termination of employment. Enrollment in Medicare typically would not cause a loss in coverage. If someone enrolls in Medicare prior to terminating employment and remains on the employer sponsored group health plan with family coverage, the spouse and any dependents would be eligible for COBRA up to 36 months from the date of the Medicare enrollment date.**

Q. Is the employer required to offer the COBRA benefit that provides the spouse the longest possible coverage? Or could the employer decide to offer 18 from retirement for all employees.

**A. Generally, if the employee who has employer sponsored family health coverage, enrolls in Medicare prior to the termination date or reduction in hours date, the spouse and eligible dependents are offered a maximum of 36 months of COBRA from the date of Medicare enrollment. If the employee terminates employment with family coverage, enrolls in COBRA and then subsequently enrolls in Medicare, the employee is terminated from COBRA and the spouse and eligible dependents remain on the plan under COBRA for the remainder of the original 18 months. A retiree and spouse might be able to stay on an alternative to COBRA plan for longer than the COBRA maximum coverage periods, but that would be up to the discretion of the employer to offer a plan that provides a benefit period longer than what COBRA would require.**

Q. In order to allow spouse 36 months of cobra, the employee would need to work until 2020 and then elect Medicare Part A and Part B after the retirement date in order to allow the spouse 36 months on cobra to get her to age 65 to be eligible to elect COBRA on her own?

**A. Actually the employee would need to time their Medicare enrollment so it occurs prior to retirement and remain on the employer sponsored health plan. Once they retire the spouse can remain on COBRA for 36 months from the Medicare enrollment date. So the employee will need to time all of this so the younger spouse can maximize the COBRA coverage period.**

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Q. Can you explain any differences in these rules when employee is enrolled in Medicare Part A only prior to the qualifying event?

**A. Enrollment in any part of Medicare prior to the qualifying event when the employee has maintained family coverage, would provide an opportunity for the employee to elect COBRA for up to 18 months and the spouse and any eligible dependents can elect COBRA for up to 36 months from the Medicare enrollment date.**

Q. If the alternative coverage is 100% employee paid, does that change any of these rules?

**A. No.**

Q. Back on slide 11 and 12, would the ER plan still pay primary even if there are less than 20 employees at the employer?

**A. The working-aged Medicare Secondary Payer provisions apply only to GHPs of employers with 20 or more employees and to multi-employer and multiple-employer GHPs in which at least one employer employs 20 or more employees. Medicare is secondary for Medicare beneficiaries age 65 or older who are covered under the plan by virtue of their own current employment status with an employer or the current employment status of a spouse of any age.**

Q. When on COBRA, during open enrollment for former employer's plan if COBRA participant drops coverage, does this qualify as a permissible mid year change event to enroll on current employer's plan (assuming current employer's S.125 recognizes open enrollment under other employer's plan as a permissible midyear event?)

**A. This will depend upon if the employer's plan will recognize the voluntary drop of COBRA at open enrollment as a qualifying event.**

Q. Does Part A become eligible even if drawing social security at age 62?

**A. Generally someone collecting Social Security early, will be automatically enrolled in Medicare Part A with they turn age 65.**

Q. Can you clarify that entitlement - vs enrolled?

**A. Entitled and enrolled are the same thing. You must be enrolled in Medicare to be entitled to the benefits.**

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Q. So if retire 1/1/19 the spouse gets a look at 36 months when he started Medicare on 1/1/19 or 36 months looking back at when he could have taken on 7/1/18.

**A. 36 months is from the date he actually enrolled in Medicare. As long as he enrolled in Medicare prior to termination of employment or reduction in hours and remained on the employer sponsored health plan, the spouse will get the option of continuation for a maximum of 36 months from the Medicare enrollment date.**

Q. My CEO turns 65 this month but is NOT taking Medicare that he would be eligible for on 8/1/18. He is going to work till 12/31/19. When he retires he is going to enroll in Medicare, which then his spouse can't stay on our active plan. I was assuming that he gets Medicare on 1/1/20 and then how long do I offer his younger wife COBRA.

**A. As long as he enrolled in Medicare prior to termination of employment or reduction in hours and remained on the employer sponsored health plan, the spouse will get the option of continuation for a maximum of 36 months from the Medicare enrollment date. If he enrolls in Medicare after he retires and while on COBRA the spouse will only be eligible for the remainder of the 18 months.**

Q. Can you explain what happens to a member who defers Medicare enrollment, terminates employment and elects COBRA for 18 months. After COBRA exhausted are they subject to penalties? Correct?

**A. I believe that as long as they were enrolled in a group health plan, even if an extension of a group health plan under COBRA, there would not be any late enrollee penalties. Exhaustion of the maximum COBRA coverage period would create a loss in coverage and a HIPAA Special Enrollment opportunity.**

Q. Do you have a sample form to be use to waive off COBRA?

**A. Unfortunately we do not have a sample waiver form.**

Q. In the presentation, you speak to "pays more" often. Does this include when premiums have an increase?

**A. I believe this is referring to the fact that under COBRA the premium can be up to 102% of the premium charged by the insurance carrier.**

Q. In New York, the medical COBRA lasts 36 months for fully insured plans - how does the Medicare secondary event apply to this? Do the QB's automatically get 36 months from the qualifying event?

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**A. You will need to refer to the insurance carrier in this state regarding the coordination with Medicare.**

**Q.** If we offer 3 or more years of insurance for retirees depending on their position, we do not have to even offer COBRA? If COBRA is questioned, we usually say the 18 month period runs concurrent with the retirement benefit, but do not require that they elect COBRA.

**A. When an Alternative Benefit or Retiree Coverage is offered in for a period of time that extends beyond the COBRA continuation period, and run concurrent with COBRA, it is correct that COBRA would not be offered again.**

**Q.** When offering the retiree coverage for three years, is it acceptable to inform the retiree they've already had coverage beyond 18 months COBRA period and additional months are not allowed?

**A. The retiree must be clearly notified that the COBRA is running concurrent with the retiree coverage. If there was another event such as a dependent loss of coverage during the COBRA continuation period, the dependent would have to be offered COBRA.**

**Q.** Why is spousal coverage so much more than the retired employee?

**A.** When reviewing the COBRA continuation regulations, you will notice that all of the 36-month events only apply to spouse or dependents that are affected by a loss of coverage under the plan. The employee is never eligible for more than 18 months of coverage except when disability extensions apply.

**Q.** Do employers have to terminate coverage once someone gets initially enrolled in Medicare, or is it at their discretion?

**A. Employers should always consult with their insurance carriers. Most carriers will not extend coverage beyond a period of time allowed by the continuation regulations.**

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