

# Employer Responsibilities Under COBRA

Employers Participating in the State Health Benefits Program and School Employees' Health Benefits Program

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## WHAT IS COBRA?

The Federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) gives employees, spouses, civil union partners, eligible same-sex domestic partners, and dependent children currently enrolled under the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) the opportunity to purchase continued health benefits for a limited period of time. COBRA applies to employees and dependents who would otherwise lose coverage as a result of a COBRA qualifying event. COBRA qualifying events include:

- work termination for reasons other than gross misconduct;
- a reduction in work hours/leave of absence;
- divorce; legal separation, or dissolution of a civil union or eligible domestic partnership;
- death of the employee;
- dependent ineligibility (i.e. child is over the eligible age of 26); or
- Medicare becoming the primary insurance.

The cost of your coverage under COBRA is the full group rate plus a 2 percent administrative fee.

**Note:** Employees who at retirement are eligible to enroll in SHBP or SEHBP Retired Group coverage cannot enroll for health benefit coverage under COBRA.

## EMPLOYER'S RESPONSIBILITIES

As the employer, you have the following basic responsibilities under COBRA:

- Provide new employees and their dependents information about COBRA;
- Provide employee and/or dependents a specific *COBRA Notice* when a COBRA event occurs;
- Maintain records that demonstrate your compliance with the COBRA law; and
- Notify the SHBP/SEHBP within *30 days* of the date of an employee/dependent's qualifying event or loss of coverage. (An employee's loss of coverage is reported by completing a *Transmittal of Deletions Sheet*. A dependent's loss of coverage is reported through the SHBP/SEHBP receipt of a completed health benefits application terminating the dependent's coverage.)

## PROVIDE INITIAL INFORMATION TO NEW EMPLOYEES

COBRA requires you to notify your employees *and their covered dependents* within *90 days* of the date coverage begins of the provisions of COBRA. If an employee already enrolled in benefits *adds* a spouse/partner to coverage, the spouse/partner must be notified about COBRA within 90 days of the date coverage begins.

The COBRA notification must be written and must be provided to the employee *and* covered eligible dependents. (**Note:** First class mail addressed "To the Family of" the employee sent to the home address meets this requirement. Hand delivery to the employee is NOT in compliance with the law).

The SHBP/SEHBP has provided each employer with a COBRA package that includes an initial notification letter. The initial COBRA notification letter indicating "VERY IMPORTANT NOTICE" may be reproduced on your letterhead and mailed to your newemployees and their dependents. Additional information can be found on our Web site at: [www.state.nj.us/treasury/pensions/health-benefits.shtml](http://www.state.nj.us/treasury/pensions/health-benefits.shtml)

### PROVIDE COBRA NOTICE AT QUALIFYING EVENT

When you are informed that a COBRA event has occurred, you must provide a specific *COBRA Notice* to the employee and/or dependents losing coverage within *14 days* of notification of the event. First class mail addressed "To the Family of" the employee sent to the home address meets this requirement. Hand delivery to the employee is NOT in compliance with the law if any dependents are affected. The *COBRA Notice* includes the notice itself, an application form, rates, and detailed instructions on completing the application. Instructions on how to complete the *COBRA Notice* have been provided to all employers participating in the SHBP/SEHBP. (Employers may also wish to include the Division of Pensions and Benefits publication, Fact Sheet #30, *Continuation of Health Benefits Insurance Under COBRA*.)

The employee is responsible for notifying the employer of the occurrence of any COBRA qualifying events such as:

- Divorce or legal separation;
- Dissolution of a civil union or domestic partnership;
- Dependent ineligibility; or
- Medicare becoming the primary insurance.

The employer is responsible for notification of COBRA qualifying events such as:

- Work termination for reasons other than gross misconduct;
- Reduction of hours/leave of absence; or
- Death of the employee.

The employee or employee's dependents have 60 days from the date of your notice or the last day of coverage to elect continued coverage. Those electing coverage must submit a properly completed *COBRA Application* to the:

**COBRA Administrator**  
**Division of Pensions and Benefits**  
**Health Benefits Bureau**  
**PO Box 299**  
**Trenton, New Jersey 08625-0299**

If the employee and/or dependents do not choose continuation of coverage under COBRA, group health insurance coverage will terminate and they cannot enroll at a later date (see also, "Employee's Failure to Elect COBRA Coverage").

### EMPLOYEE'S FAILURE TO ELECT COBRA COVERAGE

Employers should be certain that employees and dependents take into account that a failure to continue group health coverage will affect their future rights under federal law.

- First, qualified beneficiaries can lose the right to avoid having pre-existing condition exclusions applied by other group health plans if there is more than a 63-day gap in health coverage. The election of continuation of coverage under COBRA may help bridge such a gap. (If, after enrolling in COBRA a qualified beneficiary obtains new coverage which has a pre-existing condition clause, he or she may continue the COBRA enrollment at full cost for coverage of the condition excluded by the pre-existing condition clause.)
- Second, qualified beneficiaries will lose the guaranteed right to purchase individual health insurance policies that do not impose pre-existing condition exclusions if coverage under COBRA is not continued for the maximum time available.
- Finally, qualified beneficiaries should take into account that special enrollment rights exist under federal law. Qualified beneficiaries have the right to request special enrollment in another group health plan for which they are otherwise eligible (such as a plan sponsored by a spouse's/partner's employer) with-

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in 30 days of the date group coverage ends. Qualified beneficiaries also have the same special enrollment right at the end of the COBRA coverage period if coverage under COBRA is continued for the maximum time available.

### MAINTAIN RECORDS

As the employer, you must be able to demonstrate that procedures are followed that ensure compliance with the COBRA law. You are required to establish the following:

- Written policy or procedure guides that encompass both initial notification of new employees and dependents and specific notice to employees and/or dependents when a COBRA event occurs.
- Evidence that the written policies are followed. For initial COBRA notification, this can be in the form of new employee orientation attendance sheets annotated that COBRA information was sent or copies of the first page of the COBRA letter sent to new employees and their dependents. For actual COBRA events, a copy of the *COBRA Notice* should be placed in the employee's personnel file.

### WHAT HAPPENS AFTER YOU SEND THE COBRA NOTICE?

Once you send the *COBRA Notice* to the employee and/or dependents, your official responsibilities are complete.

When the COBRA enrollment application is processed by the Health Benefits Bureau, a letter is sent to the new COBRA subscriber detailing when his or her COBRA coverage started and when it will end, how to file claims, and whom to contact with problems. However, the following information may be helpful if you need to assist COBRA participants:

- Once employees are enrolled in COBRA, their claims are handled just like active employee claims (i.e. using the same claim forms and procedures). **Members must indicate their status as COBRA participants, however, on all claim forms to prevent claims problems.** Questions about claims should be directed to the insurance carriers. The exception to normal processing for **State** employees is that Vision Plan claims are sent directly to:

**COBRA Administrator**  
**Division of Pensions and Benefits**  
**Health Benefits Bureau**  
**PO Box 299**  
**Trenton, New Jersey 08625-0299**

- Questions about eligibility or changing or ending coverage should be directed to the COBRA Administrator at the address above.
- Calls about COBRA information are handled by the Division of Pensions Office of Client Services at (609) 292-7524.
- Additional information about COBRA can be found at: [www.state.nj.us/treasury/pensions/health-benefits.shtml](http://www.state.nj.us/treasury/pensions/health-benefits.shtml)

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