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COBRA training Part I


Wade Symons, Amy Pavlu
CPEEHCC Training Conference
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Services provided by Mercer Health & Benefits LLC

Agenda

- Background information
 - What is COBRA?
 - What does COBRA stand for?
 - COBRA historical background
- COBRA vocabulary
- Notice requirements
- General COBRA information
- Cal-COBRA

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Background information

What is COBRA?

- A poisonous snake
- A really fast car
- A Sylvester Stallone movie
- A roller coaster at Six Flags – Vallejo
- A law extending health care coverage



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What does COBRA stand for?

- Crazy Order By Republican Administration
- COpenhagen BRussels Amsterdam (avant-garde artists)
- Combined Old Boys Rugby Association
- Consolidated Omnibus Budget Reconciliation Act



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COBRA historical background

- President Reagan signed the Consolidated Omnibus Budget Reconciliation Act (COBRA) into law on April 7, 1986
- **Intent:** require employers maintaining group health plans to give employees and their dependents the opportunity to continue coverage at affordable group rates in cases where they would otherwise lose coverage because of certain events
- Group health coverage for COBRA participants is usually more expensive than health coverage for active employees
 - Usually the employer pays a part of the premium for active employees while COBRA participants generally pay the entire premium themselves – “sticker shock”



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COBRA vocabulary

What is a Group Health Plan under COBRA?

Generally, a group health plan provides health care and is maintained by the employer:

GROUP HEALTH PLANS	NON-GROUP HEALTH PLANS
<ul style="list-style-type: none"> - Health Insurance Plans - HMOs, Self-Funded Health Plans - Dental, Vision - Cancer Policies - Prescription Drug Plans - Health Flexible Spending Accounts - Health Reimbursement Arrangements - Executive Medical Reimbursement Plans - Employee Assistance Plans (EAP) - Certain Wellness and Discount Programs 	<ul style="list-style-type: none"> - Long-Term Care - Accidental Death and Dismemberment Plans (AD&D Plans) - Group Term Life Insurance - Long-Term Disability and Short-Term Disability Plans (LTD & STD Plans)

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What is a COBRA Qualifying Event?

Must be one of the following **AND** result in a loss of coverage under the group health plan

<ul style="list-style-type: none"> • Termination/reduction in hours <ul style="list-style-type: none"> ▫ Voluntary or involuntary ▫ Includes retirement/layoff/strike ▫ Increased cost = coverage loss • Employee's divorce/legal separation 	<ul style="list-style-type: none"> • Employee's death • Child loses dependent status • Employee's Medicare entitlement • Employer's bankruptcy – retirees and their dependents
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EVENT + LOSS OF COVERAGE = COBRA QUALIFYING EVENT

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Who are COBRA Qualified Beneficiaries?

- Employee, spouse (not domestic partner), dependents
- Must be covered by plan immediately before Qualifying Event, except:
 - Coverage loss in anticipation of a Qualifying Event (such as divorce)
 - Newborn/newly adopted children of former employee



Notice requirements

What are the notice requirements?

- **Regulations require use of six notices**
 - General (initial) COBRA notice (revised by DOL model)
 - Qualified Beneficiary's notice of Qualifying Event
 - Employer's notice to plan administrator of Qualifying Event
 - Election notice (revised by DOL model)
 - Notice of unavailability for coverage (new)
 - Notice of early termination of coverage (new)
- New requirements in effect as of 2005

General Notice

- A written explanation of a plan's COBRA provisions drafted in plain language
- Must state that more complete information is *available in the plan's SPD* or from the plan administrator
- Must be furnished to employees and spouses within 90 days after the date coverage begins
- Now corresponds with timing rule for distribution of SPDs
- But SPD must be provided to covered spouse if notice is to be included in SPD

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Qualified Beneficiary's Notice

- Each covered employee or Qualified Beneficiary must notify plan administrator within not less than 60 days of
 - Divorce or legal separation
 - Dependent losing eligibility under the plan (e.g., age or marriage), or
 - Social Security disability (for extension)
- If General Notice was given and Qualified Beneficiary does not give timely notice, **Qualified Beneficiary is NOT entitled to COBRA**

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Employer's notice of Qualifying Event

- Employer sends when a third-party administrator actually administers COBRA and employer has notice of Qualifying Event
- Employer is likely to have notice of events such as termination of employment and reduction in hours
- **If an Employer administers COBRA, this notice is not required**

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Election Notice

- Distributed when a COBRA Qualifying Event occurs
- A written notice including 14 specified items (e.g., plan name, participant rights, payment information, consequences of not electing COBRA)
- Must state that more complete information is *available in the plan's SPD* or from the plan administrator

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Election Notice

- Must generally be furnished within 14 days after the COBRA administrator receives notice of the Qualifying Event from the employer or Qualified Beneficiary
 - If Employer and COBRA Administrator are the same, deadline may be 44 days after a Qualifying Event
- **Qualified Beneficiaries (employee, spouse and dependents) each have independent right to elect COBRA within 60 days from date of Election Notice**

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Notice of unavailability

- Must be provided by the plan administrator when it receives notice from an individual of a Qualifying Event, 2nd Qualifying Event, or Social Security disability determination, and it determines that the individual is not entitled to COBRA
- Within 14 days of receiving the individual's notice
- No model notice available

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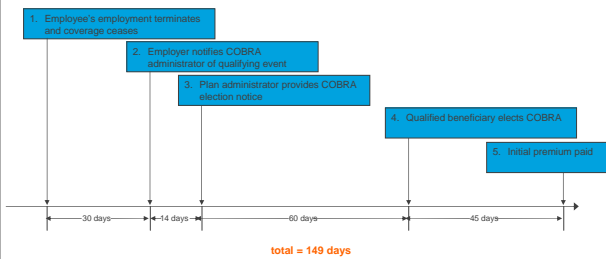
Notice of early termination

- Must be provided by the plan administrator if it determines that COBRA coverage will end earlier than the applicable maximum coverage period (18, 29, or 36 months)
- As soon as practicable after the administrator determines coverage will end early
- Must explain why and when the termination is taking place (i.e., non-payment of premiums), and any rights to other coverage the Qualified Beneficiary will have upon termination
- No model notice available

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COBRA TIMELINE



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General COBRA information



How long does COBRA last?

• 18 months for Qualifying Events:

- Termination of employment (where no gross misconduct)
- Reduction in hours

• 36 months for Qualifying Events:

- Death of employee
- Divorce or legal separation
- Medicare entitlement
- Child ceases to meet dependent definition

In a bankruptcy situation, coverage continues:

- For retiree's lifetime
- For lifetime of widow or widower of retiree covered on day before bankruptcy petition filed
- For 36 months after retiree's death for spouse and dependent children of retiree

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Can the COBRA coverage period be extended?

▪ Yes, in 3 situations:

- 11-month extension to 18-month period where Qualified Beneficiary determined to be Social Security disabled on date of Qualifying Event or within 60 days
- 18- or 29- month period extended to 36 months on second Qualifying Event, for a total of 36 months from date of first Qualifying Event
- State extensions (e.g. California extension when COBRA ends before a total of 36 months)

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What is the cost of COBRA coverage?

- Plan must establish applicable premium
- Applicable premium is generally 100% of cost for active employee coverage plus an administrative fee
- Plan may charge 102% of active employee premium for 18- or 36-month periods
- Plan may charge 150% for 11-month period of disability extension
- Premium must be set for 12-month period of coverage



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Electing and paying for COBRA

- COBRA election period is 60 days measured from later of:
 - Date coverage ends, or
 - Date employer provides notice of COBRA rights
- Pay first premium within 45 days after electing
 - Including other premium that is past due
- 30-day grace period applies to monthly COBRA premium
- Must accept insignificant underpayments
 - Lesser of \$50 or 10%
 - Allow reasonable time period for make-up



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When can COBRA coverage be terminated?

- Failure to timely pay premiums
- Qualified Beneficiary obtains other group health coverage with no pre-existing condition restriction after electing COBRA
- Medicare entitlement after electing COBRA
- Employer ceases to provide any group health plan coverage
- Qualified Beneficiary loses Social Security disability determination during extension
- Last day of maximum coverage period

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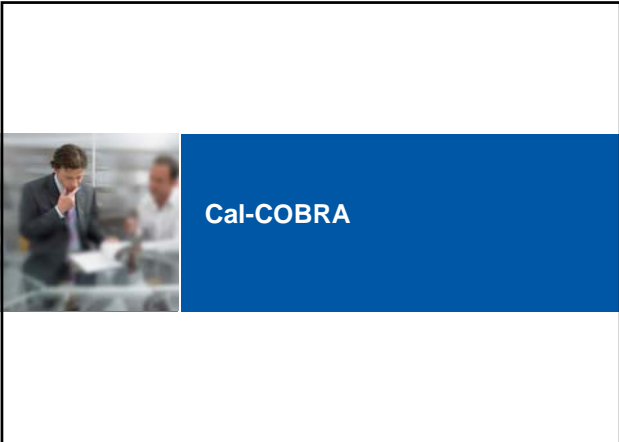
Summary Plan Description (SPD) Content Requirements

- SPD must contain detailed information on COBRA rights
- Plans need "reasonable procedures" for notices from Qualified Beneficiary to the plan (i.e., in event of divorce or dependent reaching maximum eligibility age)
 - Procedures must be included in SPD and specify:
 - Who should receive the notice (HR, Benefits)
 - How the notice must be provided (e.g., use of specific forms)
 - What information is needed from the Qualified Beneficiary (e.g., supporting documentation)

If reasonable procedures are not included, a Qualified Beneficiary's notice to any party customarily in charge of the plan would be sufficient notice to start the COBRA process (even if oral notice)

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Cal-COBRA

Cal-COBRA – small employers

Small employers must comply with Cal-COBRA

- Employers with 2 to 19 employees
- On at least 50 percent of its working days during the preceding calendar quarter
- Who are not subject to COBRA
- 36 months of continuation coverage
- Domestic partners (as defined under CA law) are eligible if spouses are covered under the employer's policy



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“Extended” Cal-COBRA – large employers

- Employers subject to COBRA
 - 20 or more employees
- Qualified Beneficiaries who:
 - Are enrolled in COBRA,
 - Are initially eligible for less than 36 months of COBRA, and
 - Exhaust maximum COBRA period
- Cal-COBRA extends coverage up to a maximum of 36 months (COBRA and extended Cal-COBRA combined)
- Cal-COBRA premium = 110% of the cost for similarly situated employees
 - 150% if a beneficiary has a Social Security level disability

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“Extended” Cal-COBRA – plans affected

- Applies to California **insured** group health plans and **HMOs** issued or filed in California
- *Medical coverage only* – not stand-alone dental, vision, EAP, health FSA or other health benefits
- Does NOT apply to:
 - Health insurance policies delivered to California employers outside California by non-California insurers; or
 - Self-funded group health plans
 - However, self-funded plans using capitated networks such as certain PPOs, HMOs and EAPs are considered to be insured and therefore covered

“Extended” Cal-COBRA – notice to Qualified Beneficiaries

- Insurers/HMOs:
 - Include notice of extension availability in initial COBRA notices and notice of conversion rights to Qualified Beneficiaries
- Employers:
 - Disclose in SPDs
 - Notice of conversion rights to Qualified Beneficiaries
 - COBRA notices, including Notice of Early Termination of COBRA coverage to Qualified Beneficiaries

“Extended” Cal-COBRA – termination

Eligibility terminates:

- At end of 36 months from first COBRA Qualifying Event
- If premiums are not paid when due
- If Qualified Beneficiary moves out of health plan service area
- If employer stops offering any health coverage
- When Qualified Beneficiary eligible for Medicare
- When Qualified Beneficiary gets other group health coverage (insured or self-insured) that has no pre-existing limitation conditions applicable to Qualified Beneficiary

COBRA and "Extended" Cal-COBRA comparison

Requirement	Federal COBRA	"Extended" Cal-COBRA
Employers Affected	ERs with 20 ees or more in prior year	Plans offering COBRA
Required Benefits	Medical, dental, vision, health FSA, EAP (if a "group health plan", e.g., provides counseling services)	Medical coverage – NOT stand-alone dental, vision, health FSA or EAP
Cost of Coverage	102%,150% during disability	110% after 18-month COBRA; 150% if SS disabled
Self-Funded Plans?	Yes, and insured plans	Generally, only to CA HMO & ins. contracts (unless capitated network)

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COBRA and "Extended" Cal-COBRA comparison

Requirement	Federal COBRA	"Extended" Cal-COBRA
Notice Requirement	ERs must give initial notice, notice at Qualifying Event, & several others	Carriers: must disclose to enrollees in initial COBRA notice & before coverage ends in conversion notice ER: include in notice of conversion rights, COBRA notices, SPD
Disability Extension	11-month extension, if timely SS disability determinant & notice to ER	150% during 29th to 36th month if SS disability
Outside of CA ("Extra-Territoriality")	COBRA applies same in all states	Also, applies to enrollees outside of CA who are covered by a CA insurance policy or HMO contract

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