

Understanding COBRA

This job aid provides information and guidance for Navigators and certified application counselors (collectively, assisters) on helping consumers learn about COBRA continuation coverage.

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COBRA Overview

The Consolidated Omnibus Budget Reconciliation Act (COBRA)ⁱ requires most group health plans to provide a temporary continuation of group health coverage that might otherwise be terminated. COBRA requires continuation coverage to be offered to covered employees, their spouses, their former spouses, and their dependent children when group health coverage would otherwise be lost due to a qualifying event, including:

- Death of the current employee;
- Loss of eligibility for the group health plan due to voluntary or involuntary termination or a reduction in hours as a result of resignation, discharge (except for “gross misconduct”), layoff, strike or lockout, medical leave, or slowdown in business operations;

Version 1.0 July 2023. This information is intended only for the use of entities and individuals certified to serve as Navigators, certified application counselors, or non-Navigator assistance personnel in a Federally-facilitated Marketplace. The terms “Federally-facilitated Marketplace” and “FFM,” as used in this document, include FFM where the state performs plan management functions. Some information in this manual may also be of interest to individuals helping consumers in State-based Marketplaces and State-based Marketplaces using the Federal Platform. This material was produced and disseminated at U.S. taxpayer expense.

- Divorce or legal separation that terminates the ex-spouse's eligibility for benefits; or
- A dependent child reaching the age at which they are no longer eligible for coverage as a dependent of an active employee under the group plan.

Employers with 20 or more employees are generally required to offer COBRA continuation coverage and to notify their employees of the availability of such coverage. COBRA applies to plans maintained by private-sector employers and plans sponsored by most state and local governments.

Employers decide whether they will contribute to their employees' premiums under COBRA, so consumers may be responsible for the entire monthly premium by themselves. Therefore, the cost of the continuation coverage may be more expensive for consumers than it was when they were employed. The cost of COBRA participants' full premium cannot exceed 102 percent of the cost of the plan for similarly situated individuals who have not incurred a qualifying event.

COBRA Continuation Coverage

COBRA continuation coverage must provide identical benefits to those available to similarly situated enrollees who are not receiving COBRA continuation coverage under the plan (generally the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage). A change in the benefits under the plan for the active employee will also apply to qualified beneficiaries in COBRA continuation coverage. Qualified beneficiaries must be allowed to make the same choices given to non-COBRA beneficiaries under the plan, such as during periods of open enrollment by the plan.

Eligibility

There are three basic requirements that must be met in order for consumers to be entitled to elect COBRA continuation coverage:

- The group health plan must be covered by COBRA;
- A qualifying event must occur; and
- The consumer must be a qualified beneficiary for that event.

In general, COBRA's definition of a "qualified beneficiary" includes only a covered employee, their spouse, and dependent children who were covered under the health plan on the day before the COBRA qualifying event, as well as children born to or adopted by the employee during a period of COBRA coverage. Each of the qualified beneficiaries for a qualifying event may independently elect COBRA continuation coverage. This means that if both a consumer and their spouse are entitled to elect continuation coverage, they each may decide separately whether to do so.

Electing COBRA Continuation Coverage

Usually, consumers have until the later of 60 days after losing eligibility for their employer's group health coverage or 60 days after receiving their COBRA election notice whichever is later, to elect COBRA continuation coverage.

- However, due to the COVID-19 National Emergency, these deadlines were temporarily extended. However, the Public Health Emergency (PHE) for COVID-19, declared under Section 319 of the Public Health Service (PHS) Act, expired at the end of the day on May 11, 2023. Instead of employees being required to elect COBRA coverage within 60 days of losing group health coverage or receiving a COBRA election notice, plans are now required to "disregard" the period between March 1, 2020, and the end of the Outbreak Period, which lasts for 60 days after May 11, 2023, and will conclude at the end of the day on July 10, 2023. This disregard is up to a maximum of one year for each individual.
- Therefore, employees who have experienced a COBRA continuation coverage qualifying event have the end of their 60-day election period paused until the earlier of one year from the date they were first eligible for relief, or the end of the Outbreak Period.
- For example, a consumer who normally would have been required to make a COBRA election by March 1, 2022, had until March 1, 2023, which is the earlier of one year from March 1, 2022, or the end of the Outbreak Period.
- Alternatively, a consumer who normally would have been required to make a COBRA election by June 30, 2023, has until September 8, 2023, which is 60 days after the end of the Outbreak Period.
- COBRA continuation coverage will generally begin retroactively on the date consumers' active-employment-based group health coverage ended, as long as the election is made within the allowable election period for COBRA continuation. Consumers have 45 days after election to pay their first month's premium.

COBRA Continuation Coverage Duration

COBRA continuation coverage will generally begin retroactively on the date consumers' active-employment-based group health coverage ended, as long as the election is made within the allowable election period for COBRA continuation coverage. The length of the period of COBRA continuation coverage will depend on the type of qualifying event which caused the qualified beneficiary to lose group health plan coverage.

- When consumers elect COBRA continuation coverage due to termination of employment or a reduction of hours, they are generally allowed up to 18 months of group health coverage.
- In certain circumstances, consumers may extend COBRA continuation coverage up to 29 or 36 months of group health coverage:

- **Disability:** Consumers will be eligible for an 11-month extension of coverage if a qualified beneficiary in the family is disabled and meets certain criteria, for a total of 29 months.
 - The disability requirements are that:
 1. The Social Security Administration (SSA) determines that the disabled qualified beneficiary is disabled before the 60th day of continuation coverage; and
 2. The disability continues during the rest of the 18-month period of continuation coverage.
- **Dependents of a covered employee who becomes eligible for Medicare:** If a covered employee becomes entitled to Medicare benefits and later has a termination of employment or a reduction of employment hours, the period of COBRA continuation coverage for the employee's spouse and dependent children lasts until the later of the 36-month period that begins on the date the covered employee became entitled to Medicare, or the 18- or 29- month period that begins on the date of the covered employee's termination of employment or reduction of employment hours.
- **Second Qualifying Event:** Consumers may also extend COBRA continuation coverage longer than the initial 18-month period with a second qualifying event (e.g., divorce or death) up to an additional 18 months, for a total of 36 months.

For consumers with any qualifying event, COBRA continuation coverage may end earlier if:

- An individual does not pay premiums on a timely basis.
- The employer ceases to maintain any group health plan.
- After the COBRA election, an individual obtains coverage with another group health plan.
- After the COBRA election, a beneficiary first becomes enrolled in Medicare benefits.*
- An individual engages in conduct that would justify the plan in terminating coverage of a similarly situated enrollee not receiving continuation coverage (such as fraud).

* **Note:** If Medicare coverage, either Part A or Part B, begins before the date that COBRA becomes effective, COBRA continuation coverage may not be discontinued due to Medicare enrollment.



COBRA Continuation Coverage and Marketplace Coverage

Many individuals and families, particularly those whose employers are not contributing to their COBRA premiums, may have lower-cost options in the Marketplace.

If a consumer decides not to elect COBRA continuation coverage, they can enroll in a Marketplace plan instead. Losing job-based coverage qualifies consumers for a Special Enrollment Period (SEP). This means they have 60 days to enroll in a health plan, even if it's outside the annual Open Enrollment Period (OEP). They may qualify for advance payments of the premium tax credit (APTC) or cost-sharing reductions (CSRs) through the Marketplace, if they are eligible.

If a consumer is already enrolled in COBRA continuation coverage, they may be able to change to a Marketplace plan. Exhibit 1 lists consumer options for changing from COBRA continuation coverage to a Marketplace plan during Open Enrollment and outside Open Enrollment.

Exhibit 1 - Can You Change from COBRA Continuation Coverage to a Marketplace plan?

Timing of Change from COBRA continuation coverage to a Marketplace plan	If your COBRA continuation coverage is running out	If you're ending COBRA early	If COBRA continuation costs change because your former employer stops contributing or lose a government subsidy (like COBRA premium assistance) and they must pay full cost
During Open Enrollment	Yes, you can change.	Yes, you can change.	Yes, you can change.
Outside Open Enrollment	Yes, you can change – you qualify for a Special Enrollment Period (SEP).	No, you can't change until the next Open Enrollment Period, your COBRA runs out, or you qualify for an SEP another way	Yes, you can change – you qualify for an SEP.

Assister Tips

Consumers eligible for COBRA continuation coverage may want to learn more about their coverage options and their eligibility for Marketplace or other individual market plans. As an assister, you should encourage them to consider:

- Continuity of coverage.** COBRA continuation coverage provides continuity of coverage because consumers generally stay in exactly the same plan they were in when they were employed, with the same network of doctors and hospitals and the same deductible. However, it may not be a viable long-term option for some consumers due to the limited period COBRA continuation coverage is available.

- **Cost.** COBRA continuation coverage may be more expensive than typical employer-based coverage since employers are not required to contribute to premium costs or other costs associated with COBRA coverage. Consumers may be eligible for savings for Marketplace coverage.
- **Family members' coverage needs.** Consumers should also decide if they will enroll all qualified beneficiaries (i.e., dependents or children) in COBRA continuation coverage, or if these family members may be eligible to enroll in Medicaid, the Children's Health Insurance Program (CHIP), or other health coverage.

Note: Eligibility for Medicaid or eligibility for Marketplace coverage does not make consumers ineligible for COBRA continuation coverage. Consumers can apply for and enroll in Medicaid any time, and if they qualify, they can drop COBRA continuation coverage early.

- **Other available coverage.** There may be more generous options for health coverage available to them and their family through other group health plan coverage, such as through a spouse's plan; individual health insurance coverage, such as through the Marketplace; and/or certain governmental programs.
- **Health plan benefits.** Consumers may want to compare health plan benefits and determine which health plans best meet their ongoing and expected needs in terms of access to care, such as provider networks; formularies; and quality of care.

Resources

- [COBRA coverage and the Marketplace](#)
- [COBRA Continuation coverage questions and answers](#)
- [FAQs on COBRA Continuation Health Coverage for Workers](#)
- [FAQs about Families First Coronavirus Response Act, Coronavirus Aid, Relief, and Economic Security Act, and Health Insurance Portability and Accountability Act Implementation Part 58](#)
- [COBRA: 7 important facts](#)

ⁱ COBRA health benefit provisions amend the Employee Retirement Income Security Act, the Internal Revenue Code, and the Public Health Service Act: [Govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg82.pdf](https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg82.pdf)
[Govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg82.pdf](https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg82.pdf).

