

COBRA Overview: The Short Course

A. The Short Course Is for You

If you thought (until recently) that COBRA referred only to exotic snakes, this short course is for you. We meet you at every EBIA seminar. You are the company's accountant or recently promoted employee assigned by the boss to "figure out this COBRA stuff." You are the new hire in HR. You are the staff person for the insurance brokerage that has decided to administer COBRA for its clients.

And now you are the newly minted COBRA administrator. This short course is just for you. No legal citations and no court cases. Just a simple guide to where you're going.

Word of Warning. This short course is general and simple. COBRA is detailed and complex, with many exceptions and special rules. At times, COBRA is vague, even contradictory. Getting COBRA wrong can have serious legal consequences. This short course orients you. When administering COBRA, do not rely on this short course alone. You must read EBIA's comprehensive *COBRA* manual to understand the details. See the back of this booklet for ordering information.

B. What You'll Learn in the Short Course

The short course teaches you:

- the basic rules of COBRA;
- COBRA's peculiar vocabulary;
- the roles of the employer and the plan administrator in COBRA compliance, including action items, deadlines, and required paperwork; and
- the duties of the qualified beneficiary.

Take the Quiz. At the end of the short course is a quiz you can take to see what you've learned.

C. COBRA in a Nutshell

At the risk of oversimplification, here is the basic COBRA requirement broken into its component parts:

- A qualified beneficiary who
- loses group health plan coverage
- due to a qualifying event
- may elect to continue group health plan coverage
- for a limited time
- on a self-pay basis.

The 80/20 Rule. The basic COBRA rules cover probably 80% of the cases that a plan administrator will ever see—but dealing with the other 20% of cases requires knowledge of the exceptions and special rules. (And as is so often the case with exceptions, about 80% of EBIA’s comprehensive *COBRA* manual is devoted to the 20% of cases that are governed by the exceptions.)

What we commonly call “COBRA coverage” technically is “group health plan continuation coverage.” Under COBRA, an individual who might otherwise lose coverage under a group health plan can pay to continue that coverage for a limited time.

Caution About Insurers. Except for the group health plans that insurers provide to their own employees, COBRA does not apply directly to insurers. However, the policies issued by both group insurers and stop-loss insurers generally require them to cover COBRA continuation claims. It is possible for employers to get into disputes with insurers about whether COBRA is required in particular circumstances. Careful COBRA administrators will formulate COBRA policies and procedures after consulting with insurers, to make sure that insurance coverage will be available when the plan must provide COBRA coverage. When questions arise about whether COBRA is required in particular circumstances, COBRA administrators will likely wish to seek input from insurers; however, the potential COBRA liability (and the final decision regarding COBRA compliance) rests with the administrator and plan sponsor.

D. COBRA’s Legal Framework

COBRA is a federal law whose provisions appear in three places: the Employee Retirement Income Security Act (ERISA); the Internal Revenue Code (Code); and the Public Health Service Act (PHSA). Generally, the provisions of COBRA read the same in all three statutes. The COBRA provisions of ERISA and the Code apply to the group health plans of private-sector employers, while the COBRA provisions of the PHSA apply to the group health plans of state and local governments.

Both the IRS and DOL have issued COBRA regulations. Generally, the IRS COBRA regulations relate to COBRA’s rules regarding COBRA coverage, answering such questions as: what is COBRA coverage; who may elect COBRA; and how long will COBRA coverage last? The DOL’s regulations relate to the notices and disclosures that employers, plan administrators, and qualified beneficiaries must provide under COBRA.

E. What Employers Are Subject to COBRA?

Almost all group health plans of private and public employers must comply with COBRA. Certain small employer plans (discussed in the following paragraph), certain church plans, and federal government plans are not subject to COBRA.