

# How to Self-Administer COBRA/Minnesota Continuation

**Christensen Group advises our clients to use a COBRA administrator to safeguard COBRA compliance issues. Should you choose to self-administer COBRA, below are guidelines for the administration process.**

COBRA and/or Minnesota Continuation must be offered to qualified beneficiaries when a qualifying event occurs. If the event does not cause a loss of group health coverage, the employer is not required to offer COBRA coverage. See a Summary Comparison of Federal and Minnesota Continuation Laws [here](#).

## **COBRA/MN Continuation Qualifying Events** See a list of qualifying events [here](#).

- Termination of Employment – Voluntary or Involuntary
- Reduction in work hours
- Ceasing to be a dependent on a plan
- Divorce
- Death
- Entitlement to Medicare

## **COBRA/MN Continuation Eligible Benefits**

- Health Insurance
- Dental Insurance
- Vision Insurance
- Life Insurance
- Health Reimbursement Arrangement (HRA)
- Flexible Spending Account (FSA) – unspent healthcare funds
- Accidental Death & Dismemberment (AD&D) Insurance – carrier specific

## **Employer Steps When a Qualifying Event Occurs**

### **1. Term Member from the plan(s):**

- a. Coverage will typically go through the end of the month in which the Qualified Beneficiary became ineligible for coverage.
- b. Terminations can be completed through the carrier's employer portal or by submitting a termination form to the carrier. Terminated employees are not required to sign forms.

### **2. COBRA Election Letter**

- a. Coverage typically runs through the end of the month in which the employee was terminated. Reference carrier contracts for confirmation.
- b. If elected, COBRA coverage begins the first day following loss of coverage.
- c. COBRA typically lasts 18 months for most qualifying events. Refer to Qualifying Events document [here](#), as this can vary.
- d. COBRA Administrator: Company Name
- e. Include all eligible lines of coverage the employee was enrolled in
- f. Qualified Beneficiaries are responsible for up to 102% of the billed premium amount
- g. Election Period: Qualified Beneficiaries have 60 days from receipt of COBRA letter or loss of coverage, whichever is greater
- h. Qualified Beneficiaries have 45 days from election date to make premium payment.

### **3. COBRA Election Letter must be sent to the last known address within 10 days of the qualifying event.** It is advised to send the letter via first class mail and retain copies of mailed materials.

### **4. Qualified Beneficiary elects COBRA:** Once premium check has been received and cleared the bank, employer will reinstate coverage back to the COBRA effective date.

### **5. COBRA Payments:** Qualified Beneficiaries are responsible for ongoing premium payments. Payments are paid to the employer and the employer will pay the carrier invoice. Qualified Beneficiaries are not invoiced separately.

This information is only a summary of key steps involved in COBRA administration. It does not provide comprehensive information of an employer's COBRA/MN Continuation responsibilities and is not intended to be exhaustive or be construed as legal advice.



# Summary Comparison of Federal and Minnesota Continuation Laws

	<b>FEDERAL (COBRA)</b>	<b>MINNESOTA CONTINUATION</b>
<b>Covered Employers and Health Plans</b>	Group health plans (fully insured and self-insured) maintained by private-sector employers with <b>20 or more employees</b> . Most group health plans maintained by governmental employers are required to offer COBRA. However, group health plans maintained by churches are exempt from COBRA.	Group health insurance plans issued to employers of all sizes. Self-insured, ERISA-covered group health plans are not subject to state continuation coverage requirements. Coverage under fully insured group health plans may be continued under COBRA or state law, or both, depending on the situation. When coverage is continued under both laws, the provision or rule that is most generous to the qualified beneficiary should be applied. In some cases, Minnesota's continuation coverage law mandates more coverage for an individual than COBRA. In these instances, employers should follow the state continuation coverage law.
<b>Qualified Beneficiaries</b>	An employee, spouse or dependent child covered by a group health plan on the day before a qualifying event. In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary.	Covered employees, spouses and dependents.
<b>Qualifying Events</b>	Events that trigger an obligation to offer COBRA coverage include: <ul style="list-style-type: none"> <li>• Termination of employment for reasons other than gross misconduct (all qualified beneficiaries);</li> <li>• Reduction in the number of hours of employment (all qualified beneficiaries);</li> <li>• Covered employee's becoming entitled to Medicare (spouse and dependent children);</li> <li>• Divorce or legal separation of the covered employee (spouse and dependent children);</li> <li>• Death of the covered employee (spouse and dependent children); and</li> <li>• Loss of dependent child status under the plan (dependent children).</li> </ul>	Events that trigger an obligation to offer state continuation coverage include: <ul style="list-style-type: none"> <li>• Voluntary or involuntary termination or layoff from employment for reasons other than gross misconduct (all qualified beneficiaries);</li> <li>• Covered employee's enrollment in Medicare (spouse and dependent children);</li> <li>• Dissolution of marriage (spouse and dependent children);</li> <li>• Death of covered employee (spouse and dependent children); and</li> <li>• Loss of dependent child status under the plan (dependent children).</li> </ul> Also, coverage under the group plan must be extended when an employee is absent from work due to his or her total disability.



	<b>FEDERAL (COBRA)</b>	<b>MINNESOTA CONTINUATION</b>
<b>Maximum Continuation Period</b>	<p>The maximum duration of COBRA coverage depends on the type of qualifying event, as follows:</p> <p><b>18 months</b> - Employment termination or reduction in hours of work</p> <p><b>29 months</b> - The Social Security Administration (SSA) determines the qualified beneficiary is disabled during the first 60 days of COBRA coverage. This 11-month extension applies to the qualified beneficiary with the disability and all of the qualified beneficiaries in the family.</p> <p><b>36 months</b> - Divorce or legal separation, employee's death, entitlement to Medicare or loss of dependent child status</p> <p><b>36 months</b> - After a qualifying event that is an employment termination or a reduction in hours of work, a second qualifying event occurs that is the death of the employee, the divorce or legal separation of the covered employee and spouse, Medicare entitlement (in certain circumstances) or loss of dependent child status under the plan.</p>	<p>The maximum duration of state continuation coverage depends on the type of qualifying event, as follows:</p> <p><b>18 months</b> – Voluntary or involuntary termination or layoff from employment for reasons other than gross misconduct</p> <p><b>36 months</b> – Covered employee enrolls in Medicare or a dependent child loses dependent status</p> <p><b>Until coverage would otherwise end</b></p> <ul style="list-style-type: none"> <li>- In the event of a divorce, spouses and dependents are entitled to continue coverage until it would otherwise terminate under the policy. In the event of an employee's death, coverage must continue until it would have terminated had the employee lived.</li> </ul> <p><b>Length of total disability</b> – A covered employee and his or her covered dependents may continue coverage for the entire time employee is totally disabled, provided they remain otherwise eligible under the policy.</p>
<b>Early Termination of Coverage</b>	<p>COBRA coverage may end earlier than the maximum continuation period if:</p> <ul style="list-style-type: none"> <li>• Premiums are not paid on a timely basis;</li> <li>• The employer ceases to maintain any group health plan;</li> <li>• After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of the beneficiary; or</li> <li>• After the COBRA election, a beneficiary becomes entitled to Medicare benefits.</li> </ul> <p>Also, when a qualified beneficiary's COBRA coverage has been extended due to disability and the qualified beneficiary is no longer disabled, coverage may terminate at the end of the maximum coverage period that applies without regard to the disability extension or, if later, the first day of the month that is more than 30 days after a final determination by the SSA that the qualified beneficiary is no longer disabled.</p>	<p>State continuation coverage may end earlier than the maximum continuation period if:</p> <ul style="list-style-type: none"> <li>• Premiums are not paid on a timely basis; or</li> <li>• Coverage is obtained under another group health plan.</li> </ul>



	FEDERAL (COBRA)	MINNESOTA CONTINUATION
Notice Requirements	<p>Health plan administrators must provide an <b>initial general notice</b> when group health coverage begins. When a qualifying event occurs, health plan administrators must provide an <b>election notice</b> regarding rights to COBRA continuation benefits to each qualifying beneficiary who loses plan coverage in connection with the qualifying event.</p> <p>Qualified beneficiaries must respond to this notice and elect COBRA coverage by the <b>60th day</b> after the written notice is sent or the day health care coverage would end, whichever is later.</p> <p>Additional COBRA notice requirements apply under federal law.</p>	<p>Employers must inform covered employees of their right to continue coverage within <b>14 days</b> after a termination or layoff. The employee must have at least <b>60 days</b> to elect coverage. The 60-day period begins on the date plan coverage would otherwise terminate or on the date when the employer's continuation coverage notice is received, whichever is later.</p> <p>Upon request, the insurance carrier must provide instructions for electing continuation coverage in connection with a divorce, Medicare entitlement or the loss of a dependent child status.</p>
Premium Rules	<p>The maximum amount charged to qualified beneficiaries cannot exceed <b>102 percent</b> of the plan's total cost of coverage for similarly situated individuals. For qualified beneficiaries receiving the 11-month disability extension, the premium for those additional months may be increased to 150 percent of the plan's total cost of coverage. Plans must provide at least 45 days after the election for making an initial premium payment. The plan sponsor may establish due dates for later payments, but it must provide a minimum 30-day grace period for each payment.</p>	<p>The maximum amount charged for continuation coverage cannot exceed <b>102 percent</b> of the plan's total cost of coverage for similarly situated individuals. For survivor continuation coverage following an employee's death, failing to pay premiums within 90 days after notice of the requirement to pay the premiums is a basis for the termination of the coverage. In event of termination by reason of the survivor's failure to make required premium contributions, written notice of cancellation must be mailed to the survivor's last known address at least 30 days before the cancellation. When coverage is extended due to total disability, the employee may be required to pay all or any part of the premium for the extension of coverage.</p>
Applicable Statutes	IRC § 4980B, ERISA §601 <i>et seq.</i> , 29 CFR §§ 2590.606–1 through 2590.606–4	Minnesota Statutes §§ 62A.146, 62A.17, 62A/20, 62A.21
Government Agency Contact	Departments of Labor and the Treasury (private sector plans) and the Department of Health and Human Services (public sector plans). More information on COBRA coverage is available from the <a href="#">Department of Labor</a> .	<a href="#">Minnesota Department of Commerce</a>





# COMPLIANCE OVERVIEW

## COBRA Qualifying Events

The Consolidated Omnibus Budget Reconciliation Act (COBRA) is a federal law that requires most employers to provide former employees and dependents who lose group health benefits due to a qualifying event with an opportunity to continue group health coverage for a limited period of time.

Most employer-sponsored group health plans are subject to COBRA's continuation coverage requirements. Under COBRA, an employer must offer continued coverage to a qualified beneficiary when group health coverage ends (or would end) due to a qualifying event. COBRA includes a specific list of seven events that can be considered qualifying events if they result in a loss of group health coverage.

This Compliance Overview provides information about each type of qualifying event, the individuals to whom a coverage offer must be made and how long the continuation coverage must extend.

### HIGHLIGHTS

#### QUALIFYING EVENTS

- Termination of a covered employee's employment (other than for gross misconduct)
- Reduction in a covered employee's hours of employment
- Divorce or legal separation from a covered employee
- Death of a covered employee
- Ceasing to be a dependent child under the terms of the plan
- Covered employee's entitlement to Medicare
- Employer bankruptcy (for retiree plans)

#### LINKS AND RESOURCES

- [Employer's Guide](#) to Group Health Continuation Coverage under COBRA
- [Frequently Asked Questions](#) on COBRA Continuation Health Coverage
- Department of Labor [final rule](#) on Health Care Continuation Coverage

This Compliance Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

## COBRA Qualifying Events

An employer that is subject to COBRA must offer continuation coverage only when group health plan coverage ends (or would end) due to a qualifying event. COBRA includes the following specific list of seven events that can be considered qualifying events if they result in a loss of group health plan coverage:

- 1. Termination of a covered employee's employment (other than for gross misconduct)**
- 2. A reduction of a covered employee's hours of employment**
- 3. A divorce or legal separation from the covered employee**
- 4. The death of a covered employee**
- 5. Ceasing to be a dependent child under the terms of the plan**
- 6. The covered employee's entitlement to Medicare**
- 7. Employer bankruptcy (for retiree plans)**

If an employee or dependent loses group health plan coverage for a reason that is not a COBRA-qualifying event, the employer is not required to offer COBRA coverage. Similarly, if the qualifying event does not cause a loss of group health coverage, the employer is not required to offer COBRA coverage.

COBRA  
coverage must  
be offered to  
qualified  
beneficiaries  
when:



- A qualifying event occurs when the health plan is subject to COBRA; and
- The qualifying event causes a loss of coverage under the plan for a covered employee, covered spouse or covered dependent child.

## IMPORTANT DEFINITIONS

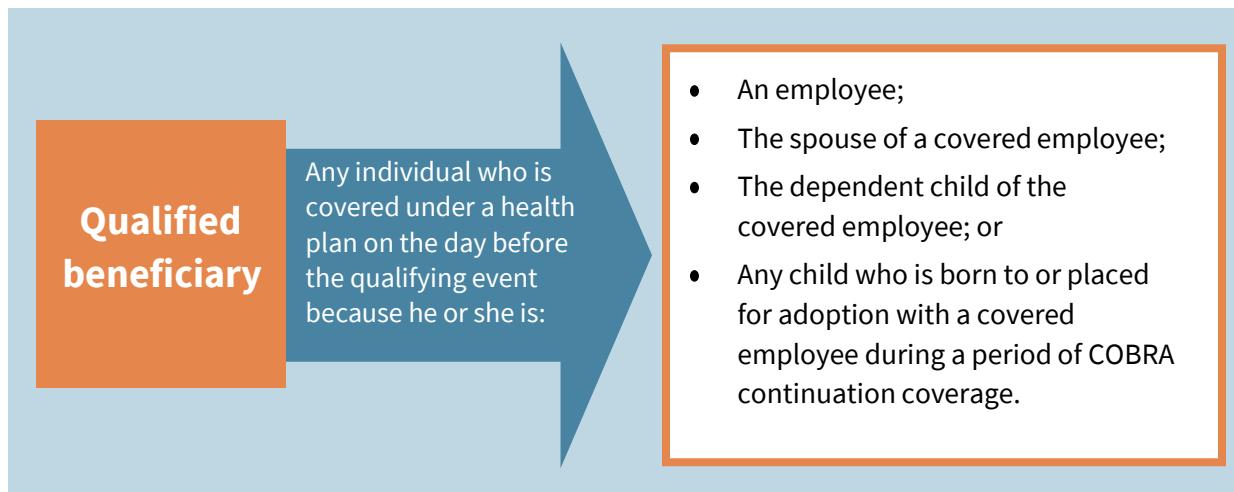
### **Plans Subject to COBRA**

Almost all employers with group health plans must comply with COBRA, including corporations, partnerships and tax-exempt organizations.

There is a small employer exception to COBRA—an employer's group health plan is not subject to COBRA if the employer normally employed **fewer than 20 employees** during the preceding calendar year.

## ***Qualified Beneficiaries***

Under COBRA, a qualifying event triggers an obligation to offer COBRA coverage to **qualified beneficiaries**.



Each qualified beneficiary has an independent right to elect COBRA. For example, if an employee and his or her spouse were covered under the health plan on the day before the qualifying event, the spouse may elect COBRA even if the employee declines coverage.

## ***Maximum Coverage Period***

The period of COBRA coverage offered to qualifying beneficiaries is known as the “maximum coverage period.” The length of the maximum coverage period depends on the type of qualifying event that has occurred. It is:

- **18 months** for a termination of employment or reduction in hours; and
- **36 months** for all other qualifying events.

There are situations where the maximum coverage period can be extended (due to disability or a second qualifying event) or terminated early (for example, when COBRA premiums are not paid).

## ***Qualifying Events***

A qualifying event is any one of the seven specified events that occurs while a health plan is subject to COBRA and that results in a loss of coverage to a covered employee, covered spouse or a covered dependent child. There are some situations that are not considered qualifying events that require COBRA coverage to be offered.

### **Key Point**

**Not all losses of health plan coverage are caused by qualifying events.**

For example, a cancellation of health plan coverage—whether at the employee's request or because of the employee's failure to pay premiums—is not, by itself, a qualifying event that triggers the requirement to offer COBRA coverage. Likewise, cancelling coverage for an ineligible individual who was mistakenly covered by the health plan is not a qualifying event for COBRA purposes.

To lose coverage means to cease to be covered under the same terms and conditions that were in effect immediately before the event. Often, there is a complete loss of coverage due to a qualifying event (for example, a complete loss of health plan coverage following an employee's termination of employment). However, even a partial loss of coverage can trigger COBRA rights. For example, a loss of coverage includes an increase in employee premiums or contributions as a result of a qualifying event.

## Key Point

If the event does not cause a loss of group health coverage, the employer is not required to offer COBRA.

## CHART OF QUALIFYING EVENTS

QUALIFYING EVENT	DESCRIPTION OF EVENT	QUALIFYING BENEFICIARIES	MAXIMUM COVERAGE PERIOD
<b>Event 1: Termination of employment</b>	Termination of covered employee's employment—whether voluntary or involuntary—for reasons other than gross misconduct  Includes, for example, retirement, voluntary quitting, employer-initiated discharges, layoffs, strikes and lockouts  COBRA does not include a definition for "gross misconduct." It is clear, however, that a termination for gross misconduct is not the same as a "for cause" termination.	Covered employee, spouse and dependent children	18 months
<b>Event 2: Reduction of hours</b>	A reduction in hours of a covered employee's employment  This occurs when there is a decrease in the hours that a covered employee is required to work or that he or she actually works, but only if the decrease is not accompanied by an immediate termination of employment.	Covered employee, spouse and dependent children	18 months

# COMPLIANCE OVERVIEW

	<p>If group health plan eligibility depends on the number of hours worked in a given period (such as the preceding month or quarter) and the employee fails to work the required hours, this is a reduction of hours.</p> <p>Includes, for example, changing positions from full time to part time, a temporary layoff or furlough, or an absence from work due to disability or for any other reason (other than FMLA leave)</p>		
<b>Event 3: Divorce or legal separation</b>	<p>The divorce or legal separation of the covered employee from the covered employee's spouse</p> <p>Many health plans are designed so that a legal separation will not trigger a loss of coverage, and, thus, will not be a qualifying event.</p>	<p>Spouse and dependent children</p> <p>*Under most plans, a divorce or legal separation will not cause a dependent child to lose coverage.</p>	36 months
<b>Event 4: Death of covered employee</b>	The death of a covered employee	Spouse and dependent children	36 months
<b>Event 5: Child's loss of dependent status under plan rules</b>	<p>A covered employee's dependent child ceases to be a dependent under the plan's terms</p> <p>For example, a dependent child could lose coverage based on the plan's age limit for dependent children. Due to the Affordable Care Act's reforms, most health plans have an age limit of 26, although state insurance requirements in some states require dependent coverage beyond age 26.</p>	Dependent child	36 months

# COMPLIANCE OVERVIEW

<b>Event 6: Entitlement to Medicare benefits</b>	<p>A covered employee becoming entitled to Medicare</p> <p>A covered employee is entitled to Medicare when he or she is eligible for Medicare and actually enrolled in the Medicare program.</p> <p>An employee's Medicare entitlement will rarely cause a loss of coverage due to the Medicare secondary payer rules. Under the Medicare secondary payer rules, most group health plans are prohibited in most circumstances from making Medicare entitlement an event that causes a loss of coverage. However, Medicare entitlement may cause a loss of coverage for covered retirees.</p>	Spouse and dependent children	36 months
<b>Event 7: Employer's bankruptcy</b>	<p>An employer's bankruptcy can be a qualifying event for covered retirees and their covered spouses and dependent children who lose health plan coverage in connection with an employer's bankruptcy.</p> <p>Also, for employer bankruptcy, a loss of coverage includes a substantial elimination of coverage that occurs within the 12 months before or after the date on which bankruptcy proceedings begin.</p>	Retiree, spouse and dependent child (if the employer or any member of its controlled group continue to offer a group health plan)	For covered retiree, date of retiree's death  For covered spouse and dependent child, 36 months after retiree's death