

COBRA - What Happens When It Ends

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COBRA (Consolidated Omnibus Budget and Reconciliation Act) Continuation Coverage is a federal law that allows persons covered under a group health insurance plan to continue on the coverage after regular eligibility for the coverage is lost, e.g., an employee ceasing to be employed; a spouse who divorces the employee; a child reaches the age when she is no longer eligible for dependent coverage.

COBRA coverage is limited, usually to 18 months for terminating employees, and 36 months for dependents losing eligibility. But what can a person do when COBRA ends, especially someone dealing with HCV or any other condition that renders them “uninsurable” on the open insurance market.

For someone who is totally disabled, federal law provides an extension that will continue COBRA until the start of Medicare. For those who are not totally disabled, but have a medical condition that would prevent them from purchasing individual health insurance, there is another federal law, HIPAA, that allows such persons to purchase coverage.

If you leave work due to disability...

In 1989 COBRA was amended under a law called OBRA (Omnibus Budget and Reconciliation Act) to allow people, who had to stop work due to disability, to extend the time they can keep COBRA Continuation. Under this law, someone who qualifies may stay on their employer’s COBRA Continuation until they become eligible for Medicare, which is normally 29 months after they leave work due to disability.

However, to qualify for this extension of COBRA, you must meet several requirements:

1. You must apply for Social Security Disability Insurance (SSDI) benefits.
2. Social Security must approve your benefits during your initial 18 month COBRA period.
3. The Onset Date of your disability must be within 60 days of the start of your COBRA coverage.
4. Finally, you must provide a copy of your Social Security Notice of Award letter to your COBRA administrator within 60 days of receiving it AND within the 18 month COBRA period.

Now, for a practical look at each of these requirements:

1. COBRA is letting Social Security decide who was disabled when they stopped working. If you didn’t pay into Social Security because you were a public school teacher or government employee and are therefore not

- “financially eligible,” Social Security will still review your medical records to see if you are disabled enough to qualify for benefits if you had been eligible. Such persons need to tell Social Security that they are applying to extend COBRA.
2. The SSDI claim must be approved during the original 18 months of COBRA. If there is a denial and you have to wait to appeal before an Administrative Law Judge, and it goes beyond 18 months, you lose your chance to extend COBRA even if your claim is later approved.
 3. Social Security will determine the onset date of your disability. That is the date they believe you became disabled and the date from which they start counting the five-month waiting period of benefits. Even if the approval letter comes in the last few months of your COBRA Continuation, you can still qualify for the extension if the Onset Date given in your approval letter is within 60 days of the COBRA Qualifying Event, i.e., the date you stopped working.
 4. The COBRA administrator **MUST** be informed of your approval for Social Security within 60 days of its receipt. This rule has unfortunately cost many people their right to stay on COBRA. Too many people don't think about extending their COBRA until it is almost over, and that can be too late to get the extension. The COBRA administrator is usually your old employer or they may have contracted with an outside firm to administer their COBRA people. A good rule of thumb is that the copy of the Social Security Notice of Award letter should go to the same place that you send your COBRA premiums. Follow up to confirm the notice was received and ask for written confirmation of eligibility for the extension.

This is a good way to stay insured since it allows you to stay on your employer's health insurance plan until you become eligible for Medicare. The primary drawback is that during the months after the first 18 months of COBRA, the employer can (and will) charge you the actual premium PLUS 50%. If you were paying \$200 per month on COBRA, the extended months will cost \$300 per month.

If your COBRA ends and you don't qualify for the disability extension...

A 1996 federal law, called HIPAA (Health Insurance Portability and Accountability Act) provides that people losing their employer's coverage after COBRA expires have a one-time opportunity to move to a broad benefit individual health insurance plan.

The rules on qualifying for individual coverage are not complicated:

1. You must continue your COBRA Continuation as long as possible. You cannot drop COBRA at any time and move to the individual plan. You must stay on it until it ends

2. You must have been continuously covered under health insurance for at least 18 months. That's easy, since COBRA itself lasts 18 months or longer.
3. You must sign up for the individual coverage within 63 days of the end of your COBRA insurance.

The Coverage.

The plans you will have a guaranteed right to buy will change from state to state. Some states require that everyone purchase coverage from one central plan.

Other states require every insurance company writing individual health insurance to carry "HIPAA coverage plans" and each person can go with the company of their choice. Either way, the coverage must be broad, and will almost always include prescription drug coverage. Companies offering "HIPAA" plans must offer their two most popular health plans based on premiums written.

The Cost

The insurance lobby wasn't totally asleep when this law was passed, so there are no limits on what carriers can charge. It will definitely cost you more than buying coverage on the open market, however, the premiums are far less than some of the old "conversion plans" insurance companies used to offer. The cost will also vary dramatically by location.

How It Works

Once the COBRA Continuation coverage ends, the insurance company or administrator is required to send you what is called a "Certificate of Creditable Coverage" which is usually simply a letter confirming the starting and stopping dates of your coverage with them.

You will have 63 days to present your Certificate to the insurance carrier and enroll in a plan. Upon presenting that letter to the HIPAA plan or carrier, the plan is required to let you purchase the coverage. It should be noted that the right to purchase insurance can be used only once and expires after 63 days.

Because of these two laws, now, if anyone ever becomes insured under an employer health plan, even briefly, he will be permitted to maintain health insurance indefinitely, even after employment terminates all the way to Medicare.