

# COMPLIANCE OVERVIEW

Provided by Stern Insurance Group Inc

## COBRA Election Notice Checklist

The Consolidated Omnibus Budget Reconciliation Act (COBRA) imposes a variety of notice requirements on group health plans sponsored by covered employers (20 or more employees). One of the most important COBRA notices is the election notice that plan administrators are required to give to qualified beneficiaries (QBs).

The COBRA election notice explains to QBs that they have the right to elect COBRA coverage. It also typically includes a COBRA election form. The notice must be provided to QBs within certain timeframes. Also, the Department of Labor's COBRA [regulations](#) require the election notice to meet specific content requirements.

This Compliance Overview contains a checklist that outlines the information that the COBRA election notice is required to include. It also addresses the deadlines for providing the COBRA election notice.

### LINKS AND RESOURCES

The following Department of Labor resources are available to help facilitate compliance with COBRA Election Notice requirements:

- [Final rule](#) on Health Care Continuation Coverage
- COBRA [Model Election Notice](#)
- Employee Benefits Security Administration (EBSA) COBRA Continuation Coverage [website](#)

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.

## HIGHLIGHTS

### WHEN TO PROVIDE NOTICE

- Plan administrator: Within **14 days** after receiving notice of a qualifying event from an employer.
- Employer that is also the plan administrator: Within **44 days** after the later of either the date of a qualifying event or the date the QB loses coverage due to the qualifying event.

### CONTENT REQUIREMENTS

- Information about the plan, the administrator, the qualifying event, and each QB entitled to elect COBRA.
- Explanations of how to elect and pay for COBRA coverage, the coverage available, alternative options, how to make changes, and other details.



## ELECTION NOTICE DEADLINE

The plan administrator must provide a COBRA election notice to a QB within **14 days** after the plan administrator receives notice of a qualifying event from the employer or QB.

In many cases, the employer is also the plan administrator. For qualifying events where the employer is required to provide notice to the plan administrator (termination or reduction in hours, death of the employee, or employee becoming entitled to Medicare) and the employer is also the plan administrator, the election notice must be provided to the QB within **44 days** of the later of:

- The date of the qualifying event; or
- The date on which the QB loses coverage due to the qualifying event.

## CONTENT REQUIREMENTS

The COBRA election notice must be written in a **manner calculated to be understood by the average plan participant** and contain the following information:

- Name of the plan
- Name, address and telephone number of the COBRA administrator
- Identification of the qualifying event
- Identification of each QB entitled to elect COBRA
- The date coverage will terminate unless COBRA is elected
- An explanation of how and when each QB may independently elect COBRA
- The plan's procedures for electing COBRA, including the time period in which the election must be made and the date the election must be made
- An explanation of the consequences of failing to elect or waiving COBRA, including any impact on future rights to portability, guaranteed access to individual health coverage, and special enrollment
- An explanation of how to revoke a waiver of COBRA
- A description of the coverage available under COBRA, including the date COBRA would commence (may refer to the plan's Summary Plan Description (SPD))
- An explanation of the maximum period for which COBRA will be available, including the termination date and the events that might cause COBRA to be terminated earlier

- An explanation of when COBRA may be extended due to a second qualifying event or determination of disability
- An explanation of the QB's obligation to provide the plan administration with notice of any second qualifying event or determination of disability
- The applicable COBRA premium amount for each QB
- A description of the due dates for COBRA premium payments and of the QB's right to pay them on a monthly basis
- A description of any grace periods for premium payments
- The address to which premium payments should be sent
- A description of the consequences of delayed payment or non-payment of premiums
- An explanation of the importance of keeping the plan administrator informed of the current addresses of all beneficiaries under the plan
- A statement that the notice does not fully describe COBRA or other rights under the plan and that more complete information regarding such rights is available in the plan's SPD or from the plan administrator

## MODEL ELECTION NOTICE

The Department of Labor (DOL) released a [COBRA Model Election Notice](#) that can be used by single-employer group health plans to meet their notice obligations. The model notice was updated in 2014 to provide information about the Affordable Care Act (ACA) and other coverage options that may be available through the Health Insurance Marketplace (or Exchanges) as potentially more affordable alternatives to COBRA coverage.

To use the model election notice properly, a plan administrator must fill in the blanks with the appropriate plan information. Plan administrators are not required to use the model notice, but properly using it is considered **good faith compliance** with COBRA's notice content requirements.

The DOL issued a [frequently asked question](#) (FAQ) on June 21, 2016, regarding COBRA election notices and Exchange coverage. In this FAQ, the DOL states that employers **may include additional information with their COBRA election notices about Exchange coverage**, including information that may help QBs choose between COBRA and other coverage options. Employers may also tailor their COBRA election notices to specific groups, such as young adults aging out of their parents' health plan. In all cases, though, the notices are required to be "easily understood by the average plan participant" and, thus, information should not be too lengthy or difficult to understand.