Frequently Asked Questions - COBRA and How to Continue Your Healthcare Coverage

Many people have health insurance through their employer's group plan. When they no longer qualify for coverage through this plan, federal and state law may provide the right to continue coverage in that group plan for a limited time.

Q. What is COBRA?

A. COBRA stands for Consolidated Omnibus Budget Reconciliation Act. This is the federal law that provides many workers with the right to continue coverage in a group health plan. This federal law applies to employers with 20 or more employees, including self-insured employers. It does not apply to group health plans established or maintained by the federal government or to church plans established and maintained by a church that is tax exempt under section 501 of the Internal Revenue Code.

Q. How is Minnesota law different from COBRA?

A. Minnesota law applies to fully insured employers with two or more employees as well as self-insured plans offered by local government units. Minnesota law does not apply to self-insured non-governmental employers. In some circumstances, Minnesota law provides for a longer continuation time than does COBRA.

Q. When can you choose to continue your group coverage?

A. The choice to continue coverage can be made when a person has a "qualifying event" that results in the loss of coverage. Examples of qualifying events are:

- you quit work, are laid off, retire or are fired (not for gross misconduct)
- your hours are reduced so you no longer qualify for the group plan
- you are legally separated or divorced
- your child no longer qualifies as a dependent under the plan
- you become disabled
- you die (qualifying event for your family)
- you become eligible for, or enrolled in, Medicare.

Q. Who can continue coverage and for how long?

A. If you were covered through your employer's plan on the day before the qualifying event, you have the right to continue coverage. This right includes current and former spouses and dependents. Each covered person has an independent right to continue coverage.
This right may be provided under federal or state law or both. In order to determine if state or federal law applies, or if both apply, you should find out if the group health plan is fully insured or self-insured and if your employer has 20 or more employees.

**Former Employee**

A former employee who was actually covered under the employer's group health plan on the day before leaving work is eligible to continue coverage. It does not matter how long you worked for your employer. You can leave your job for any reason except for gross misconduct. Under both federal and state law, a former employee can continue coverage for up to 18 months or until he or she becomes covered under another group health plan, whichever occurs first.

However, if you were eligible for, but turned down for coverage in your employer's group plan, you do not have the right to elect continuation coverage.

Any former employee who becomes disabled within 60 days of going on federal continuation coverage can extend that coverage an additional 11 months, for a total of 29 months.

An employee who becomes disabled while employed can continue coverage up to 29 months under federal law. Under Minnesota law, an employee who becomes totally disabled while employed can remain in the group health plan indefinitely.

**Spouse of a Former Employee**

A spouse of a former employee, who was covered under the enrollee's employer plan on the day before the qualifying event can elect to continue coverage. Under both federal and state law, the spouse can continue for up to 18 months or until he or she becomes covered under another group plan. A spouse can elect continuation coverage even if the former employee does not elect continuation coverage.

**Former or Surviving Spouse**

Divorce, legal separation or death of the covered employee, may be a qualifying event if it causes the loss of coverage. A legally separated, divorced or widowed spouse, who was covered under the employer's plan on the day before the qualifying event, can elect to continue coverage. Under federal law, coverage can continue up to 36 months. Under Minnesota Law, a former or widowed spouse can continue until he or she becomes covered under another group health plan or becomes enrolled in Medicare.

**Dependent Children**

Children who lose coverage as a result of a qualifying event have the right to continue coverage. The length of continuation depends on the qualifying event.
• Legal separation or divorce - dependent children can continue up to 36 months under federal law. Under Minnesota law, they can continue until they become covered under another group plan, or until they no longer qualify as dependents under state law.
• Termination of employment - dependent children can continue up to 18 months under both federal and state law.
• Death of the covered employee - dependent children can continue until they become covered under another group plan, or until they no longer qualify as dependents.
• Covered employee becomes disabled while employed - dependent children can continue under Minnesota law as long as they qualify as dependents under state law.
• Child no longer qualifies as a dependent - the child can elect continuation coverage for up to 36 months under both federal and state law. Under Minnesota law as of January 1, 2008, an unmarried child under the age of 25 qualifies as a dependent and can stay on parent's policy. The Minnesota law no longer requires that the dependent be a full-time student.
• A dependent child who is disabled at the time of the qualifying event, or who becomes disabled within 60 days of going on continuation, can continue for 29 months under federal law.
• Under Minnesota law, grandchildren who reside with the covered employee from birth may qualify as dependents under the group plan.
• Under federal law, a child who is born to or adopted by someone on continuation can be added to that continuation coverage as a dependent.

Q. How do you sign up for continuation coverage?

A. Federal and state law require that employers and plan administrators provide written notice of the right to elect continuation coverage, including how to make this election and how much it will cost. Notice must be provided within 44 days of the qualifying event under federal law, and within 10 days of the qualifying event under state law. The written notice will be sent to your home address. Notice to a former spouse and dependent children who do not live with you will be sent to their last known address.

It is important to promptly notify the employer or plan administrator when a qualifying event occurs so that proper notice of the right to elect continuation coverage can be made. For example, the employer may not know of a divorce or legal separation, or that a child is no longer a full-time student.

Federal and state law give you 60 days from the date notice is received, or coverage would otherwise end, to elect continuation coverage. If you elect coverage within this 60-day period, and pay the applicable premiums, your coverage will be retroactive to the date of the qualifying event. You have the right to initially refuse continuation coverage and then change your mind within the 60 day election period. In this case, coverage will not be retroactive to the qualifying event but will be effective when you actually make the election.

The first premium is due within 45 days after you elect continuation coverage. The employer or plan administrator will inform you where to send subsequent payments and when they are due. Federal COBRA provides a 30-day grace period to pay subsequent premiums. There is no
similar provision in Minnesota law. It is important to make payments on time so you do not lose coverage.

If the group changes health plans or health plan company while you are on continuation coverage, your coverage will also change to the new plan. If the group has open enrollment with a choice of health plans or health plan companies, you have the same right as current employees to change to any available plan.

**Q. How much will it cost to continue group coverage?**

**A.** Your employer can charge you the entire premium plus an extra 2% for administrative costs. If the cost goes up for the group, the amount you pay will also go up. You receive the same treatment and benefits as an active employee.

A child who no longer qualifies as a dependent will be charged no more than 102% of the total cost for an individual covered under your group plan.

A person on federal continuation who becomes disabled can be charged no more than 150% of the total cost for a similarly situated person for months 19 - 29.

Under Minnesota law, the cost of continuation for a divorced or legally separated spouse depends on the way in which the group structures its premiums. Many plans charge a single rate and family rate. If the premium is the same regardless of the number of dependents covered, a former or separated spouse will not have to pay extra to continue coverage as long as the employee is paying for family coverage. Once the employee stops paying for family coverage, the former or separated spouse will be charged no more than 102% of the charge for an individual covered under the group plan. If there is a separate premium for each dependent, the former or separated spouse will have to pay no more than 102% of this dependent premium.

**Q. Can you lose continuation coverage?**

**A.** Continuation coverage will end if the former employer stops offering group health coverage to its employees. Coverage will end if you fail to pay a premium on time. Federal continuation coverage will end if you become eligible for Medicare. Minnesota continuation coverage will end if you become enrolled in Medicare. Continuation coverage will end if you become covered through another group health plan. However, if you have a preexisting condition you can keep your continuation coverage until the preexisting condition exclusionary period is satisfied. If your coverage is with an HMO, you may lose coverage if you move outside the HMO approved service area.

**Q. What happens when continuation coverage runs out?**

**A.** Federal law does not provide for coverage at the end of continuation coverage. Under Minnesota law, after your continuation coverage is exhausted, you may have the opportunity to purchase conversion coverage. You must apply within 30 days of receiving your continuation coverage expiration notice. Conversion coverage is non-group coverage that is provided through
the same health plan company that provided your continuation coverage. Conversion coverage must be provided without underwriting and without any pre-existing condition limitations.

A. If no qualifying event occurs, you are not eligible for continuation coverage. Minnesota law allows an individual who has maintained continuous coverage to purchase an individual health plan from the health plan company that provided the group coverage. The individual health plan must be provided without underwriting.

This means that when continuation coverage is not available, you may obtain an individual health plan from the health plan company that provided group coverage if you request the individual health plan within 63 days of when your group coverage terminated. However, if you apply for individual coverage with a different health plan company, Minnesota law allows health plan companies to apply underwriting to applicants for individual coverage. This means that a different health plan company may deny your application. A different health plan company may accept your application, but charge a higher rate if you have a health condition. If you have not satisfied the applicable preexisting condition exclusionary period allowed under state law, a different health plan company may accept your application with a preexisting condition exclusionary period.

**For More Information:**

Contact your employee benefits administrator as soon as a qualifying event occurs. If you are not sure who is your employee benefits administrator, contact a human resource representative at your place of employment. This is the place to find out how to elect continuation coverage, how much it will cost, how to pay premiums, and how to change health plans during open enrollment.