



Illinois Insurance Facts

Health Insurance Continuation Rights -- COBRA

Illinois Department of Insurance

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Note: This information was developed to provide consumers with general information and guidance about insurance coverages and laws. It is not intended to provide a formal, definitive description or interpretation of Department policy. For specific Department policy on any issue, regulated entities (insurance industry) and interested parties should contact the Department.

With the high costs of medical care, maintaining health coverage is very important to most individuals and families. Illinois law does not require employers to provide health benefits for their employees or their families. However, if you are covered by an employer's health benefits, loss of coverage can be devastating.

State and federal laws give certain employees, spouses and dependent children the right to continue employer-sponsored health benefits at group rates if they lose their benefits because of specific "qualifying events." The type of qualifying event determines who is qualified for continued coverage and for how long.

This fact sheet provides **specific information** on the **federal continuation requirements** under **COBRA**, the Consolidated Omnibus Budget Reconciliation Act, and compares its basic provisions to three other continuation laws: the [Illinois Continuation Law](#), the [Illinois Spousal Continuation Law](#) and the [Illinois Dependent Child Continuation Law](#). The chart at the bottom of this fact sheet provides a comparison of the laws pertaining to continuation of health benefits.

Under all four laws:

- The employer or plan administrator must notify you of your right to continue your health benefits when certain **qualifying events** have occurred. If both the state and federal laws apply to your situation, the employer or plan administrator must offer you both options. You must choose one or the other option.

NOTE: In some cases, the spouse, former spouse, dependent child or guardian must notify the employer and/or insurer that a **qualifying event** has occurred, such as divorce from or death of the covered employee or attainment of the limiting age by the dependent child. If you don't give proper notification, your continuation rights may be lost.

- Once you are offered continuation, you must elect to continue coverage within a certain time period, called the **election period**. If you don't tell the employer you want to continue coverage before the election period expires, you may lose your right to

continue coverage. If you have the option of either the state or federal continuations, once you make your choice, you can't change your decision if the **election period** has expired.

- Coverage will continue for the maximum amount of time required by law. However, coverage may end earlier in some cases, such as when the beneficiary becomes eligible for Medicare, or if the employer no longer offers any group health insurance benefits for employees.
- You must pay the **entire premium** for the coverage, including the part you used to pay as well as the part the employer paid before the qualifying event. In addition, you may also be required to pay an administrative fee under certain circumstances for COBRA and Spousal Continuation.

Your group insurance certificate, evidence of coverage or benefit plan summary booklet explains your options and responsibilities in detail. You should read the information now. Don't wait until you need your continuation rights.

What Is COBRA?

COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) is a federal law, enforced by the U.S. Department of Labor, Employee Benefits Security Administration, which provides continuation of **group health coverage** that otherwise might be terminated. The law contains provisions giving certain former employees, retirees, spouses and dependent children the right to temporary continuation of health coverage at group rates.

Which Plans Are Subject To COBRA?

COBRA applies to group health plans maintained by employers who had 20 or more employees on more than 50% of the business days in the prior calendar year, and plans sponsored by state and local governments. The following types of group health plans are subject to COBRA:

- Insured and self-insured employer group health plans;
- HMOs;
- Employee assistance plans that provide benefits beyond referral services such as counseling sessions;
- Dental plans;
- Vision plans;
- Retiree health plans;
- Health flexible spending accounts;
- Employer discount programs maintained by health care clinics where the program is utilized exclusively by employees with health or medical needs;

- Employer reimbursed health insurance policies purchased to bridge coverage under the employer's group health plan (certain restrictions apply).

Cobra does not apply to:

- Small employer plans (under 20 employees);
- Certain church and church-related plans;
- Plans sponsored by the federal government (e.g. federal employee or military personnel plans);
- Disability income plans;
- Life insurance and accidental death and dismemberment plans;
- Long term care coverage;
- Amounts contributed by an employer to a Medical Savings Account.

Who Is Eligible For COBRA Continuation Coverage?

A **qualified beneficiary** under COBRA may include an employee, employee's spouse or former spouse, and/or the employee's dependent child who is covered under the group health plan on the day before the **qualifying event**. A child born to or placed for adoption with a covered employee during a period of COBRA coverage is also a qualified beneficiary if COBRA has been elected and the child has been enrolled upon birth or adoption. In certain cases involving the bankruptcy of the employer sponsoring the plan, a retired employee, the retired employee's spouse (or former spouse), and the retired employee's dependent children may be qualified beneficiaries. Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries. Note that an event is a qualifying event only if it causes the qualified beneficiary to lose coverage under the plan.

Qualifying Events for Employees are:

- Termination of employment, for any reason other than for gross misconduct;
- Reduction in hours;
- Notifying the employer that the employee will not return to work from a Family and Medical Leave Act leave of absence.

Qualifying Events for Spouses are:

- Termination of the covered employee's employment, for any reason other than for gross misconduct;
- Reduction in the hours worked by the covered employee;
- Death of the covered employee;
- Divorce or legal separation from the covered employee;
- Covered employee's voluntary termination of group coverage due to enrollment in Medicare.

Qualifying Events for Dependent Children are:

- The same as for the spouse, plus
- Loss of dependent child status due to reaching the maximum age for coverage, marriage, or completion of schooling.

NOTE: If you are covered by another group health plan or Medicare at the time of the qualifying event, COBRA must still be offered. Coverage under Medicare or other group health plans does not preclude you from electing COBRA coverage in addition to the other coverage. (Effective January 1, 2000)

What Are The Notification Deadlines?

An employer must notify the plan administrator within 30 days after an employee's death, termination, reduction in hours of employment, entitlement to Medicare or bankruptcy of the employer.

You must notify the plan administrator within 60 days after events such as divorce or legal separation or a child's ceasing to be covered as a dependent under the policy.

The plan administrator must notify you and all other qualified beneficiaries of the right to COBRA coverage within 14 days after receiving information that a qualifying event has occurred.

Each qualified beneficiary may independently elect COBRA continuation coverage. You must notify the plan administrator of election of COBRA coverage within 60 days after the qualifying event or after the date the notice to elect COBRA coverage is sent, whichever is later.

How Much Will COBRA Continuation Coverage Cost?

You must pay the entire premium for the coverage, including the part that was formerly paid by the employer. There may be a 2% administration fee added to the premium. If coverage is extended for an additional 11 months due to a disabling condition, the premium may be up to 150% of the applicable non-COBRA premium for months 19 through 29.

Health Coverage Tax Credit (HCTC)

The HCTC is a tax credit that helps a specific population of individuals pay for health insurance premiums, including COBRA premiums. The Internal Revenue Service website, <http://www.irs.gov/individuals/article/0,,id=185800,00.html> , includes information about the 80% Health Coverage Tax Credit (HCTC) for trade-displaced workers and certain individuals receiving pension benefit

payment from the Pension Benefit Guaranty Corporation (PBGC). The website information explains who is eligible for the HCTC and how it may be claimed. Information is also available on the ICHIP website, <http://www.chip.state.il.us/>.

What Benefits Are Available Under COBRA?

The benefits provided under COBRA coverage must be the same as under the group plan. However, if you were covered by a region-specific plan, such as an HMO, and move from the service area, the HMO coverage may no longer be available. If your employer offers other coverage options that can be extended to the new area, those options must be made available to you.

How Long Does COBRA Continuation Coverage Last?

COBRA establishes a maximum period of coverage for continuation of health benefits. A health plan may provide longer periods of coverage beyond those required by COBRA. Under COBRA, an individual may be entitled to up to 18 months, 29 months, or 36 months of continuation coverage depending upon which qualifying event(s) triggered the COBRA coverage. The following table illustrates the maximum coverage periods for each qualifying event. Remember that an event is a qualifying event only if it causes the qualified beneficiary to lose coverage under the plan.

Qualifying Event	Who May Elect COBRA	Maximum Coverage Period
Termination of Employment or reduction of hours	Employee and/or covered dependents	18 months
Disability of employee or covered family member at time of COBRA election or within 60 days after election	Employee and/or covered dependents	29 months (18 months plus extension of 11 months)
Divorce or legal separation	Spouse and/or dependent children	36 months
Death of employee	Spouse and/or dependent children	36 months
Entitlement to Medicare by covered employee before a qualifying event	Spouse and/or dependent children	36 months after date of entitlement to Medicare OR 18 months (29 months if there is a disability extension) after the covered employee's employment terminates or his hours are reduced.
Loss of dependent child status	Dependent child	36 months

(Note: While on COBRA, you may experience a subsequent qualifying event that may entitle you to an extension of your COBRA coverage. If you believe this has occurred, please contact the employer for more information.)

COBRA coverage can be terminated when:

- You reach the last day of maximum coverage;
- You fail to make timely premium payments;
- The employer ceases to maintain a group health plan;
- You obtain coverage with another employer group health plan and have satisfied any waiting periods for preexisting conditions under the new plan;
- You become entitled to Medicare after COBRA was elected;
- You engage in conduct that would justify the plan terminating coverage of a similarly situated participant or beneficiary not receiving continuations coverage (such as fraud).

NOTE: If you are **already covered** by Medicare or another group health plan, you can elect COBRA coverage in addition to the other coverage. However, if you obtain Medicare or other group health coverage **after** the election of COBRA, the COBRA coverage will be terminated.

COBRA and Medicare Part B

Be aware, there may be consequences if you waive Medicare Part B when you are first eligible for Medicare believing you can enroll in Medicare Part B when your COBRA coverage ends. If you waive Medicare Part B when you are first eligible for Medicare, you may not enroll in Medicare Part B until an open enrollment period (each January through March) and coverage will not be effective until the following July 1st and you will be charged a 10% surcharge for each year of delayed enrollment for as long as you have Medicare Part B. If your COBRA coverage expires in March, for example, you will not be able to enroll in Medicare Part B until the following January and coverage will not be effective until July 1 of the next year. Please contact our Senior Health Insurance Program at (800) 548-9034 prior to making any decisions regarding your Medicare Coverage.

What Happens When COBRA Coverage Ends?

You or your dependents **may** be eligible to convert coverage to an individual policy at any time during the continuation period or at the end of the period, except when the continuing person becomes eligible for Medicare. Check your policy to find out if a conversion policy is offered.

You may also want to shop around for an individual policy on your own. You may be able to find better coverage at a more affordable rate. An insurance broker in your area can assist you in applying for individual coverage. Please note that individual policies may underwrite applicants, may apply pre-existing condition limitation periods, and may attach riders to permanently exclude coverage for an existing health condition.

If you or your dependents have a medical condition that precludes the purchase of individual coverage, the HIPAA CHIP plan offered by the Illinois Comprehensive Health Insurance Plan may be an option when the continuation policy expires. This plan provides coverage for individuals with an uninsurable health condition, without preexisting condition exclusions or limitations, if there has **not** been a break in coverage of more than 90 days. We encourage you to apply for the HIPAA CHIP plan at least two months prior to your COBRA coverage expiration in order to allow ample time for the application to be processed. For an application and information, you should contact the Illinois Comprehensive Health Insurance Plan (ICHIP) at (866) 851-2751 or <http://www.chip.state.il.us/>.

NOTE: If you have a medical condition that renders you uninsurable and you elect a conversion policy rather than HIPAA CHIP, you will lose your rights to elect HIPAA CHIP. If you elect the conversion policy and then decide, for whatever reason, to drop it, you will not be eligible for the HIPAA CHIP plan. You will have to apply for coverage with the regular CHIP plan, which may have a waiting list and does not pay for preexisting conditions for the first six months of coverage.

For More Information

Call our Consumer Services Section at (312) 814-2427 or
our Office of Consumer Health Insurance toll free at (877) 527-9431 or
visit us on our website at insurance.illinois.gov or
Contact the US Department of Labor at (866) 444-3272: <http://www.dol.gov/ebsa>

Related Topics:

[Health Insurance Continuation Rights -- Illinois Law](#)

[Health Insurance Continuation Rights -- Illinois Spousal Law](#)

[Health Insurance Continuation Rights -- Illinois Dependent Child Law](#)

This is a general comparison. For Specific Information regarding each continuation law, please refer to the specific Fact Sheet.

	COBRA	Illinois Continuation	Illinois Spousal Continuation	Dependent Continuation
Applicability	Applies to employer groups with 20 or more employees.	Applies to employer groups of any size. Applies to insurance companies and HMOs.	Applies to employer groups of any size. Applies to insurance companies and HMOs.	Applies to employer groups of any size. Applies to insurance companies and HMOs.
Who Is Eligible	Employee, spouse or former spouse and/or covered dependent children..	Employees and covered dependents.	Divorced or widowed spouses (any age) and covered dependent children. Spouses (age 55 or older) of retired employees, and covered dependents.	Covered dependent children of deceased employee, who are not otherwise covered under the Spousal Continuation Law. Covered dependent children who attain the limiting age under the insurance policy or HMO certificate.
Coverage Requirements	Must be covered by the group plan on the day prior to the qualifying event.	Employee and covered dependents must be covered for 3 continuous months before qualifying event. *For individuals involuntarily terminated from employment 9/1/2008 through 12/31/ 2009 – employee and covered dependents must be covered on the day prior to termination.	Spouse and dependents must be covered on the day prior to the qualifying event.	Dependent child must be covered on the day prior to the qualifying event.

<p>Qualifying Events</p>	<p>For employee, spouse, former spouse & covered dependent children upon:</p> <ol style="list-style-type: none"> 1. Termination of employment; 2. Reduction in employee's hours. <p>In addition for spouse, former spouse & covered dependent children upon:</p> <ol style="list-style-type: none"> 1. Employee's eligibility for Medicare; 2. Divorce or legal separation from employee; 3. Death of employee; <p>In addition, for covered dependent children upon:</p> <ol style="list-style-type: none"> 1. Loss of dependent child status under plan. 	<p>Must be presented or mailed within ten days of reduction of hours or termination of employment or membership unless termination is due to theft or commission of work-related felony.</p>	<p>Must be offered to divorced spouse or widowed spouse and dependent children upon divorce from or death of employee. Must be offered to spouse (age 55 or older) and dependent children of retiree upon employee's retirement.</p>	<p>Must be offered to dependent child after death of insured if coverage is not available under the Spousal Continuation Law.</p> <p>Must be offered to dependent child upon attainment of limiting age under the insurance policy or HMO certificate.</p>
<p>Benefits</p>	<p>Coverage must be the same as under the group plan.</p>	<p>Coverage must be the same as under the group plan but need not include dental, vision or prescription drugs.</p>	<p>Coverage must be the same as under the group plan.</p>	<p>Coverage must be the same as under the group plan.</p>
<p>Length of Continuation Coverage</p>	<p>Loss of employment or reduced hours – maximum of 18 months. May be extended to 29 months if disabled. Divorce or legal separation from employee, death of employee or employee entitled to Medicare – maximum of 36 months for spouse, former spouse and dependent children. Loss of dependent child status-maximum of 36 months.</p>	<p>Maximum period of coverage was 9 months. For policies issued, delivered, amended or renewed after June 18, 2009, maximum coverage is 12 months. (PA 96-0013, HB 2325)</p>	<p>Spouse under age 55 – Divorced or widowed spouse (not spouse of retiree) and dependent children – Coverage is provided for maximum of 2 years. Spouse age 55 or older – Divorced or widowed spouse or spouse of retiree and dependent children – coverage is provided until spouse is eligible for Medicare.</p>	<p>Coverage is provided for a maximum of 2 years.</p>
<p>Premiums</p>	<p>Premium may not exceed 102% of group rate. Plan may charge 150% after 18 months if the 11-month extension for disability is granted.</p>	<p>Premiums may not exceed the group rate.</p>	<p>Spouse under age 55 – Divorced or widowed spouse premium may not exceed the group rate. Spouse age 55 or older – Divorced or widowed spouse or spouse of retiree, administration fee may be added to group rate after first two years of coverage.</p>	<p>Premiums shall not exceed the amount that would be charged to an employee if the dependent child was an employee PLUS the amount the employer would contribute toward the premium if the dependent child were an employee.</p>