



# Illinois Insurance Facts

Illinois Department of Insurance

## Health Insurance Continuation Rights – Illinois Spousal Law

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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 considered important to everyone. 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, the 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 policy, your employer and qualifying event will determine who is qualified for continuing coverage and for how long.

This fact sheet provides **specific information** on the **Illinois Spousal Continuation Law** and compares its basic provisions to three other continuation laws: the [Illinois Continuation Law](#), the [Illinois Dependent Child Continuation Law](#) and the federal continuation requirements under [COBRA](#), the Consolidated Omnibus Budget Reconciliation Act. 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 inform the employer you want to continue coverage before the election period expires, you may lose that right. 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 can end earlier in some cases, such as when the beneficiary becomes eligible for Medicare, if the employer no longer offers any group health insurance benefits for employees or if you secure insurance through other means.
- 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 The Illinois Spousal Continuation Coverage Law?**

The Illinois Spousal Continuation Law protects a covered spouse and dependent children who lose group health insurance coverage due to death or retirement of the employee or divorce from the employee. A copy of the law is available [215 ILCS 5/367.2](#).

## **Which Plans are Subject to the Illinois Spousal Continuation Coverage Law?**

- Employers offering fully insured Illinois group and accident health plans, regardless of the group's size.
- Employers offering fully insured Illinois HMO coverage, regardless of the group's size.

**The Illinois spousal continuation law does not apply to:**

- Self-insured employers;
- Self-insured health and welfare benefit plans, such as union plans;
- Insurance policies or trusts written in other states.

**Note:** For HMOs, the law applies to contracts written outside of Illinois if the HMO member is a resident of Illinois and the HMO has established a provider network in Illinois. To determine if your HMO coverage provides Illinois continuation, contact the HMO or check your certificate of coverage.

## Who Is Eligible for Illinois Spousal Continuation Coverage?

Spousal continuation may be triggered when one of the following **qualifying events** occurs: divorce from the employee, death of the employee or retirement of the employee as follows:

- The divorced or widowed spouse (any age) and dependent children of the employee who were covered under the group plan on the day before the qualifying event;  
The spouse and dependent children of a retired employee, **if the spouse is age 55 or older**, who were covered under the group plan on the day before the qualifying event.

## What Are the Notification Deadlines?

The **eligible spouse** must notify the employer and insurance company in writing of the dissolution of marriage or the death or retirement of the employee within **30** days of the qualifying event.

The **employer** must notify the insurance company within **15** days after receiving your request for spousal continuation. The **insurance company** must notify you of the right to continuation by certified mail, return receipt requested, within **30** days after receipt of the notice from the employer.

The **eligible spouse** must return the notice of continuation election form by certified mail, return receipt requested, within **30** days after the date of mailing receipt from the insurance company.

## How Much Will Spousal Continuation Coverage Cost?

If you are a former spouse **under age 55**, the premium for Illinois Spousal Continuation coverage is the amount that would be charged if you were an employee of the employer plus any contribution the employer would normally make on behalf of active employees. You are responsible for the entire premium.

If you are a spouse or former spouse **age 55 or older**, for the initial two years of Spousal Continuation coverage, the premium is the amount that would be charged if you were an employee of the employer plus any contribution the employer would normally make on behalf of active employees. You are responsible for the entire premium. After the initial two years of coverage, the premium may be adjusted to include a 20% administration fee.

## What Benefits Are Available Under Spousal Continuation Coverage?

Coverage must be the same as what was offered under the group plan.

## How Long Does Spousal Continuation Coverage Last?

Continuation resulting from an employee's death or divorce shall be offered for a maximum period of two years if you are under age 55 at time of the qualifying event. If you are age 55 or older at the time of qualifying event, the maximum period of coverage extends until you are eligible for Medicare.

Continuation resulting from an employee's retirement is only available to spouses who are age 55 or older at the time of the retirement. The maximum period of coverage extends until the spouse is eligible for Medicare.

Your spousal continuation **may terminate earlier** than the maximum period of coverage if:

- You fail to make timely premium payments;
- The group coverage would terminate even though you were still married to the employee (unless the employee retires during the election period);
- You become an insured employee under any other group health plan;
- You remarry.

## What Happens When Spousal Continuation Coverage Ends?

You or your dependent children can 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.

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.

## **Alternatives to Spousal Continuation Coverage**

There may be other more affordable coverage options for you and your family through the Health Insurance Marketplace, Medicaid, or other group health plan coverage options (such as your spouse's plan). Loss of coverage due to employment termination or reductions in hours triggers a Special Enrollment Period (SEP) under the federal Health Insurance Portability and Accountability Act (HIPAA) and the federal Affordable Care Act (ACA).

Under HIPAA, you may be able to add coverage with your own employer sponsored group health plan if you lose coverage under your spouse's plan.. Check with your employer to determine if coverage is available to you. The HIPAA special enrollment period grants thirty days for you to enroll in your employer sponsored coverage if you are eligible. There may be a lapse between the two coverages.

Under the ACA, you may shop the Marketplace for coverage. It is important to understand the COBRA coverage is retroactive back to the date you lose coverage whereas Marketplace coverage and HIPAA coverage is prospective. Recent federal rules provide a 60 day advance period for individuals who know they will be losing employer coverage to apply for coverage on the Marketplace to avoid a lapse. This is especially important if you or a family member is receiving medical treatment. If you do not have advance notice of your loss of coverage signing up for a Marketplace plan may create a brief lapse in coverage due to the fact Marketplace policies may not begin for several weeks.

If you choose COBRA over a Marketplace insurance plan, you may not buy coverage through the Marketplace until (1) the next Marketplace Open Enrollment Period, (2) you have a qualifying event that qualifies you for another SEP, or (3) the COBRA coverage expires. Non-payment of your COBRA insurance is not a qualifying event for an SEP on the Marketplace.

For more information regarding COBRA and Marketplace insurance please go to [www.healthcare.gov](http://www.healthcare.gov) , [www.getcoveredillinois.gov](http://www.getcoveredillinois.gov) or (866) 311-1119.

## **Illinois Comprehensive Health Insurance Plan (ICHIP)**

The ICHIP is for federally eligible individuals covered under HIPAA. Coverage is for Illinois residents only who meet the following criteria:

- Have a total of 18 or more of months of creditable coverage and who have no more than a 90 day break between periods of creditable coverage.
- The most recent creditable coverage was provided under a group health plan, government or church plan.

- May not be eligible for group health coverage, Medicare or Medicaid and may not have any other health insurance coverage.
- The most recent coverage must not have been terminated due to non-payment of premium or fraud.
- All other federal COBRA requirements and state continuation options have been elected and exhausted.

For more information regarding the ICHIP program please visit [www.chip.state.il.us](http://www.chip.state.il.us) or call (866) 851-2751.

## **For More Information About the Illinois Spousal Continuation Coverage Law**

Call our  
Office of Consumer Health Insurance  
Toll free at (877) 527-9431 or  
Visit us on our website at <http://insurance.illinois.gov>

### **Related Topics:**

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

[\*Health Insurance Continuation Rights – COBRA\*](#)

[\*Health Insurance Continuation Rights – Dependent Children\*](#)

## Comparison of Continuation Laws – Illinois Department of Insurance

	<b>COBRA</b>	<b>Illinois Continuation (mini-COBRA)</b>	<b>Illinois Spousal Continuation</b>	<b>Dependent Continuation</b>
<b>Applicability</b>	Applies to employer groups with 20 or more employees.	Applies to all group HMO and insurance policies which insure employees or members for hospital, surgical or major medical insurance.	Applies to all group accident and health and group HMO policies.	Applies to all group accident and health and group HMO policies.
<b>Who Is Eligible</b>	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.
<b>Coverage Requirements</b>	Must be covered by the group plan on the day prior to the qualifying event.	Employee and covered dependents must be covered on the group plan for 3 continuous months before qualifying event.	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.
<b>Qualifying Events</b>	<p><b>For employee, spouse, former spouse &amp; covered dependent children upon:</b></p> <ol style="list-style-type: none"> <li>1. Termination of employment;</li> <li>2. Reduction in employee's hours.</li> </ol> <p><b>In addition for spouse, former spouse &amp; covered dependent children upon:</b></p> <ol style="list-style-type: none"> <li>1. Employee's eligibility for Medicare;</li> <li>2. Divorce or legal separation from employee;</li> <li>3. Death of employee;</li> </ol> <p><b>In addition, for covered dependent children upon:</b></p> <ol style="list-style-type: none"> <li>1. Loss of dependent child status under plan.</li> </ol>	Loss of coverage due to termination of employment or reduction in hours below the minimum required by the group plan.	<p>Must be offered to divorced spouse or widowed spouse and dependent children upon divorce from or death of employee.</p> <p>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><b>Benefits</b></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><b>Length of Continuation Coverage</b></p>	<p><b>Loss of employment or reduced hours</b> – maximum of 18 months. May be extended to 29 months if disabled.  <b>Divorce or legal separation from employee, death of employee or employee entitled to Medicare</b> – maximum of 36 months for spouse, former spouse and dependent children.  <b>Loss of dependent child status</b>-maximum of 36 months.</p>	<p>12 months</p>	<p><b>Spouse under age 55 – Divorced or widowed spouse (not spouse of retiree) and dependent children</b> – Coverage is provided for maximum of 2 years.  <b>Spouse age 55 or older – Divorced or widowed spouse or spouse of retiree and dependent children</b> – coverage is provided until spouse is eligible for Medicare.</p>	<p>Coverage is provided for a maximum of 2 years.</p>
<p><b>Premiums</b></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><b>Spouse under age 55</b> – Divorced or widowed spouse premium may not exceed the group rate.  <b>Spouse age 55 or older</b> – 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 <b>PLUS</b> the amount the employer would contribute toward the premium if the dependent child were an employee.</p>