

New COBRA notification requirements became effective on January 1, 2005. These new requirements detail the contents and timing of notices to employees and their dependents regarding their rights of continuation of health and welfare benefit coverage as prescribed by the Consolidated Omnibus Budget Reconciliation Act of 1985. Benefit Concepts' COBRA Administration service is in compliance with these new regulations.

GENERAL NOTICE

The notice must be furnished to each employee covered by a plan subject to COBRA (and his or her spouse, if any) at the time of **commencement of coverage under the plan**.

If a spouse becomes covered after the employee, the notice must be furnished to the spouse.

The notice must be distributed within 90 days of commencement of coverage under the plan, or the first date after the covered employee or covered spouse's begins on which the plan administrator must furnish the COBRA election notice to the employee, spouse or dependent child.

Example: coverage begins on July 1 and notice is required to be distributed by August 1. Employee terminates coverage on July 15. The Employer has until the date the COBRA election notice is required to be furnished (44 days from July 15) to also furnish the general notice.

A single notice addressed to both the covered employee and the covered employee's spouse may be furnished as long as the spouse resides at the same location as the covered employee.

Note: If a dependent child does not reside at the same location as the covered employee or the covered spouse, a separate notice must be furnished to the dependent child.

The recommended delivery method is first class mail.

There is no requirement that the notice be translated to a foreign language.

CONTENTS OF NOTICE:

1. Name of Plan and name, address and Tel. No. of the party from whom additional information about the plan and continuation coverage may be obtained.
2. General description of continuation coverage including classes of individuals who may become QB's (Qualified Beneficiary), the types of QE's (Qualifying Event) that may give rise to the right to continuation coverage, the obligation of the employer to notify the PA (Plan Administrator) of the occurrence of certain QE's, the maximum coverage period, when and under what circumstances the maximum coverage period may be extended, and the plan's requirement applicable to the payment of premiums.
3. An explanation of the responsibility of QB's to notify the PA of a QE that is a divorce, legal separation, or a child's ceasing to be a dependent under the plan and a description of the plan's procedures for providing such notice.
4. An explanation of the plan's requirements regarding the responsibility of QB's who are receiving continuation coverage to provide notice to the PA of a SS (Social Security) determination of disability and a description of the plan's procedure for providing the notice.

5. An explanation of keeping the PA informed of current addresses of all participants or beneficiaries under the plan who are or who may become QB's.

A statement that the notice does not fully describe continuation coverage or other rights under the plan and more complete information is available from the plan administrator and in the plan's SPD.

ELECTION NOTICE

The election notice must be furnished to each qualified beneficiary covered by a plan subject to COBRA not later than 44 days after the date on which a qualifying event occurred.

A single notice addressed to both the covered employee and the covered employee's spouse may be furnished as long as the spouse resides at the same location as the covered employee.

A single notice addressed to the covered employee or the covered employee's spouse is considered notification to a dependent child as long as the dependent child resides at the same location as the individual to whom the notice is provided.

Note: If a dependent child does not reside at the same location as the covered employee or the covered spouse, a separate notice must be furnished to the dependent child.

The recommended delivery method is first class mail.

CONTENTS OF NOTICE:

1. Name of Plan and the name, address and Tel. No. of the party administering COBRA.
2. Identification of the qualifying event
3. Identification by status or name of the qualified beneficiaries (QB) entitled to COBRA and the date on which coverage terminates
4. A statement that QB's have independent election rights; that a covered employee or a qualified beneficiary who is the spouse of a covered employee may elect continuation coverage on behalf of all other qualified beneficiaries and that a parent or legal guardian may elect coverage on behalf of a minor child.
5. An explanation of the plan's election procedures, the time period for electing and the date by which the election must be made.
6. Consequences of failing to elect COBRA
7. A description of the coverage that will be provided
8. Length of COBRA coverage
9. How the COBRA period may be extended

10. QB's responsibility to provide notice of a second qualifying event and notice of SSA disability determination
11. The COBRA premium
12. Premium due dates, payment procedures and consequences of late payment or non-payment
13. The importance of keeping the administrator informed of changes of address
14. A statement that more complete information may be obtained from the SPD or from the Plan Administrator.

Note: If you are using different coding with respect to special arrangements such as a severance, that will require identification as well.

TERMINATION NOTICE

The notice must be furnished to each qualified beneficiary whose continuation coverage is terminated earlier than the maximum period allowed. It must be furnished as soon as practicable following the determination that coverage is to be terminated.

A single notice addressed to both the covered employee and the covered employee's spouse may be furnished as long as the spouse resides at the same location as the covered employee.

A single notice addressed to the covered employee or the covered employee's spouse is considered notification to a dependent child as long as the dependent child resides at the same location as the individual to whom the notice is provided.

Note: If a dependent child does not reside at the same location as the covered employee or the covered spouse, a separate notice must be furnished to the dependent child.

Recommended delivery is first class mailing.

CONTENTS:

1. The reason coverage is ending
2. The date of termination
3. Any rights the qualified beneficiary may have to elect alternative group coverage or individual coverage such as a conversion right

NOTICE REQUIREMENTS FOR COVERED EMPLOYEES

AND QUALIFIED BENEFICIARIES

Four notices are required:

1. Notice of the occurrence of a qualifying event that is a divorce or legal separation or a child's ceasing to be covered under a plan as a dependent child
2. Notice of a second qualifying event after a QB has become entitled to COBRA with a maximum duration of 18 or 29 months
3. Notice that a QB is entitled to 18 months of COBRA has been determined by the SSA to be disabled at any time during the first 60 days of COBRA coverage
4. Notice that a QB has subsequently been determined by the SSA to no longer be disabled

Plans must establish reasonable procedures for covered employees and qualified beneficiaries to furnish notices by:

1. Describing the procedures in the summary plan description (SPD)
2. Specify the individual or entity designated to receive the notices
3. Specify the means by which notice may be given
4. Describing the information that is necessary to be given regarding the qualifying event or SSA disability determination

Plans may establish reasonable deadlines for covered employees and qualified beneficiaries to give notice but they must be greater than or equal to the minimums established in the regulations, i.e.:

For a qualifying event or second qualifying event, the deadline cannot be earlier than 60 days after the latest of:

1. The date of the qualifying event
2. The date on which the QB loses (or would lose) coverage under the plan as a result of the qualifying event
3. The date on which the QB is informed, through the furnishing of the SPD or initial notice, of both:
 - a. The responsibility to provide the notice
 - b. The Plan's procedures for providing the notice

For notice of the SSA's disability determination, the deadline cannot be earlier than 60 days after the latest of:

1. The date of the SSA's disability determination
2. The date on which a qualifying event occurs
3. The date on which the QB loses (or would lose) coverage under the plan as a result of a qualifying event
4. The date on which the QB is informed, through the furnishing of the SPD or initial notice, of both:
 - a. The responsibility to provide the notice
 - b. The Plan's procedures for providing the notice

The plan may also require notice to be provided before the end of the first 18 months of continuation coverage.

For notice that a QB has subsequently been determined by the SSA to no longer be disabled, the deadline cannot be earlier than 30 days after the later of:

1. The date of the final SSA determination that the QB is no longer disabled
2. The date on which the QB is informed, through the furnishing of the SPD or initial notice, of both:
 - a. The responsibility to provide the notice

- b. The Plan's procedures for providing the notice

NOTE: The establishment of reasonable notification procedures is a completely new requirement. If a plan lacks reasonable procedures, then notice is deemed to be provided when any written or oral communication identifying a specific event is made in a manner reasonably calculated to bring the information to the attention of the person or organizational unit that customarily handles employee benefits matters of the employer.

If a notice does not contain all contents required by the plan, the notice is still considered timely if:

1. It is provided within the plan's time limit and the administrator is able to determine:
 - a. The plan
 - b. The covered employee and qualified beneficiary(ies)
 - c. The qualifying event or disability
 - d. The date on which the qualifying event occurred.

The plan's procedures should define when and under what circumstances a notice will be rejected if supplemental information is not provided within "some reasonable period of time".

The regulations do not contain a model form for providing the notice, and they do not contain model procedures.

The following individuals may provide the notice:

1. The covered employee
2. A qualified beneficiary with respect to the covered event
3. Any representative acting on behalf of the covered employee or qualified beneficiary

Notice provided by one individual satisfies the responsibility to provide notice on behalf of all related qualified beneficiaries with respect to the qualifying event.

*****Nothing contained in this article should be construed as legal advice. If legal advice or other expert assistance is required the services of a competent professional should be sought**