

# COBRA Frequently Asked Questions | Employer FAQ

Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)



## What is COBRA?

COBRA is a law that permits employees who have lost medical or dental coverage to continue participation in their group benefit plan(s) on a self-pay basis through their former employer.

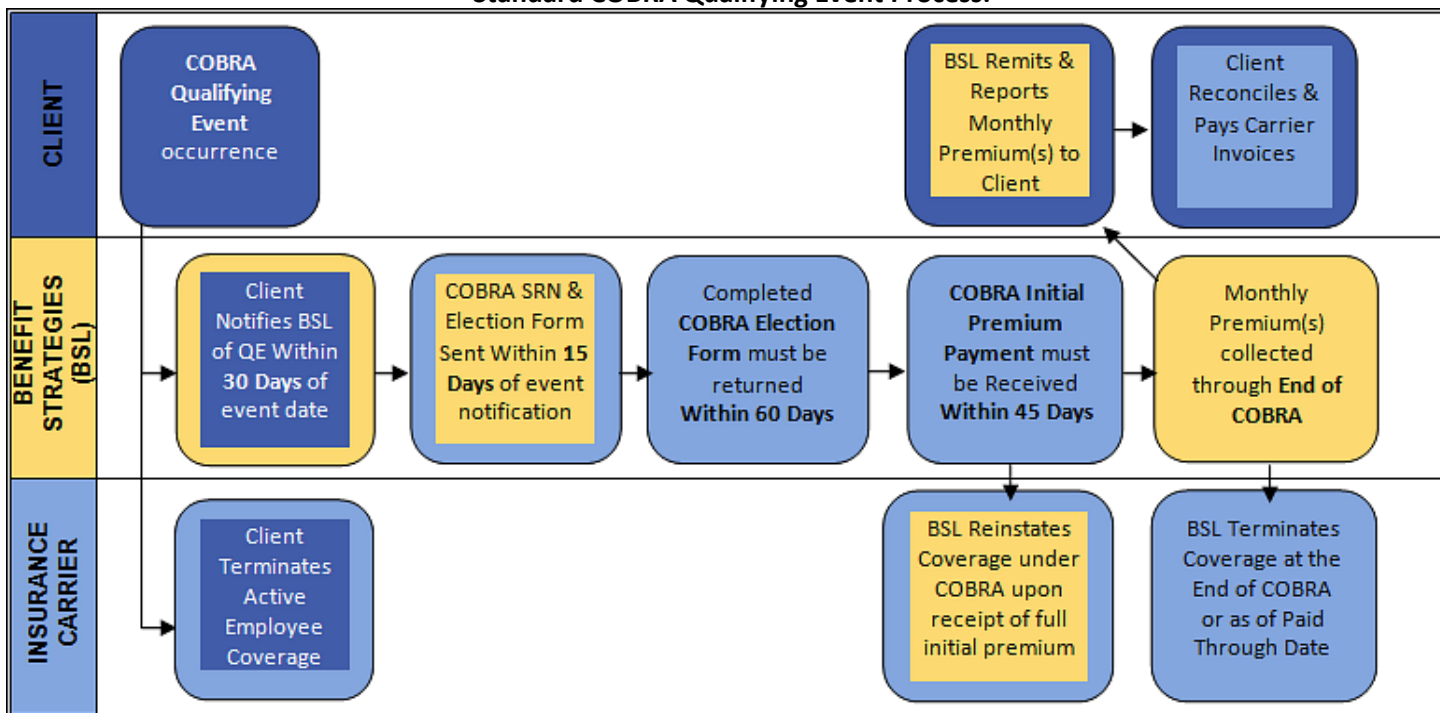
**Please Note: Failure to adhere to COBRA regulations can result in severe penalties and possible litigation. Benefit Strategies, LLC ensures seamless delivery of COBRA administration, maintains compliance, and guarantees a high level of service. Eliminate time consuming tasks and reduce costs by removing yourself from the COBRA administration and payment process.**

### Benefit Strategies COBRA Administration Features:

Dedicated Account Manager  
 Determination of COBRA Eligibility per Qualifying Event (QE)  
 Determination and Tracking of COBRA SSDI Extensions  
 Custom Communication Materials  
 Reinstatements, Change & Termination Carrier Notifications  
 Credit card and ACH Payments Accepted  
 COBRA Specific Rights Notice (SRN) Compliance Proof of Mail

Proven Data Security Protocols and Systems  
 Anytime Web Access to Reporting, Plan & Event Details  
 Billing and Collecting of COBRA Premium Payments  
 Monthly Disbursement with Detailed Remittance Reports  
 Subsidy and Severance Notification and Premium Forecast  
 24/7 Access to View and Print COBRA Communications  
 Online COBRA Election and Attestation

### Standard COBRA Qualifying Event Process:



### Frequently Asked COBRA Questions:

**How/When does coverage become re-activated under COBRA?** Benefit Strategies, LLC will notify the carrier and/or employer of COBRA election upon receipt of completed enrollment paperwork and full initial payment. Benefit Strategies will start the reinstatement process only when premiums are paid current.

**COBRA continuation coverage may be terminated if we don't receive "timely payment" of the premium. Do we have to allow a grace period?** Yes, after initial payment you must allow qualified beneficiaries a 30-day grace period to make monthly payments for benefit(s) being continued (that is, 30 days from the due date).

**One of our employees quit and at first declined COBRA continuation coverage, then changed their mind before the end of the 60-day election period and wants to elect COBRA. Do we have to provide continuation coverage?** Yes, you do. A qualified beneficiary who waives COBRA continuation coverage can revoke the waiver at any time before the end of the election period. However, coverage need only be provided prospectively — that is, it can start on the date the waiver was revoked. Waivers and revocations of waivers are considered made on the date they are sent to the employer or plan administrator.

**One of our employees voluntarily dropped his medical coverage for himself, his wife and his dependent children. Should the wife and children be offered COBRA coverage?** No. Voluntarily dropping coverage is not considered a qualifying event for purposes of COBRA. For spouses, the only qualifying events are the employee's termination of employment or reduction in hours to fewer than the number required for plan participation, divorce or legal separation, the employee's death, and the employee's enrollment in Medicare. For dependent children, these same qualifying events apply, plus one additional event — the child's "aging out," that is, the child's loss of dependent status under the plan's terms.

**Our group-health premium rates for active employees and their dependents just went up. We have several former employees on COBRA continuation coverage. Can we increase their COBRA premiums?** The applicable COBRA premium must be computed and fixed before the "determination" period begins. A determination period is a 12 month accounting period and is not tied to any particular qualified beneficiary's qualifying event date or start of continuation coverage. If your carrier increased premiums in the middle of the determination period, you must wait for the next determination period to begin to assess an increased premium, unless you were previously charging less than the 102% allowed under COBRA (subsidizing COBRA premiums). In this case, you may require qualified beneficiaries to pay an increased amount, but not more than the maximum 102% of original premium due.

**We hired a new employee who has declined health insurance under our group plan because he prefers to keep the COBRA coverage from his previous employer. If we're not in an open-enrollment period when his COBRA expires, what happens?** Under HIPAA, employees and dependents who decline coverage under an employer's plan because they have other coverage have the right to enroll if they lose the other coverage or exhaust COBRA. The person must request enrollment within 30 days of losing coverage. If an employee declines coverage because he or she had other coverage, it's a good idea to get that statement in writing.

**We terminated an employee mid-month. He was given a COBRA election form at that time. Our group health plan requires us to carry him until the end of the month. An employee has 60 days to elect COBRA coverage, but when does that period begin running — on the employee's last day of work or the last day of the month when he actually loses coverage?** The qualifying event for COBRA purposes is the employee's loss of employment. However, the election period does not end until 60 days after the employer sends the election form to the employee or until 60 days after the loss of coverage, whichever is later. In this case, the 60-day election period starts to run on the last day of the month.

**An ex-employee in his 12th month of COBRA has become disabled. Is he eligible for the disability extension that expands the usual 18 months of continuation health care coverage to 29 months?** No. Under COBRA rules, a qualified beneficiary is eligible for extended coverage only if he or she was disabled during the first 60 days of COBRA; the disability must occur during this period or have already been in existence then. The beneficiary also needs a determination from the Social Security Administration (SSA) that he or she was disabled for SSA purposes. It's not enough for the beneficiary to be considered disabled under the employer's long-term disability plan. The SSA determination can be made any time before the end of the initial 18-month COBRA period, but the disability must have existed during the first 60 days of COBRA coverage.

**When an employee on our group health plan takes leave under the federal Family and Medical Leave Act (FMLA), may we put that employee on COBRA?** An employer must maintain group health coverage for an employee (and covered spouse and dependents) during an FMLA leave as if the employee were not on leave. The leave is not a qualifying event giving rise to COBRA coverage. However, an employee (and covered spouse/dependents) may become eligible to elect COBRA coverage if: the employee does not return to work after the last day of FMLA leave; the employee was covered under the group health plan on the day before FMLA leave began; and the employee (or spouse/dependents) would, in the absence of COBRA coverage, lose coverage under the group health plan before the end of the maximum coverage period.

**We know that COBRA coverage need not be offered to an employee who is terminated for gross misconduct. But what exactly is "gross misconduct"?** Unfortunately neither COBRA's statutory language nor the IRS regulations define the term. Some courts have ruled that the term should be defined the same way the unemployment laws define the term in the state where the employee worked. Other courts, have ruled that misconduct was gross if it was so outrageous as to "shock the conscience." An example would be a bank employee embezzling from the bank. Although there are no clear-cut guidelines, while it appears that excessive absenteeism, poor judgment, defying a supervisor, or poor performance would not be enough to warrant denial of COBRA coverage.

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