



## **New COBRA Notice Requirements**

The Consolidated Omnibus Budget Reconciliation Act (COBRA) provides certain former employees, retirees, spouses, former spouses and dependent children with the right to temporary continuation of health care coverage at group rates. COBRA applies to group health plans for employers with twenty or more employees during the previous calendar year. Massachusetts has a "mini-COBRA" law that applies to small businesses with less than twenty employees. The U.S. Department of Labor issued final rules implementing COBRA notice requirements for continuation coverage for plan years beginning after November 26, 2004. As a result, a calendar year group health plan must comply with the new rules beginning January 1, 2005.

### **New Notice Requirements**

The new regulations set standards for the timing and content of notices required when:

- 1) Employees and their spouses are initially enrolled in a group health plan;
- 2) COBRA election rights occur due to a qualifying event such as employment termination;
- 3) Qualified beneficiaries elect COBRA coverage;
- 4) COBRA coverage is determined to be unavailable; or
- 5) COBRA coverage terminates before the coverage period ends.

The plan or employer must provide notice of COBRA continuation coverage to both an employee and spouse (if covered under the plan) when the coverage begins. Under the new regulations, notice must be provided within 90 days after coverage commences. The notice must be delivered to both an employee and his or her spouse. The administrator

must provide notice of COBRA election rights in writing to each qualified beneficiary within fourteen days of the administrator's notice of a qualifying event. If the administrator is the employer, a longer period of forty-four days to provide notice applies.

### **Required Forms**

Model forms are included in the regulations for single-employer group health plans for the initial COBRA continuation coverage rights notice, for the COBRA coverage election notice, and for the qualified beneficiaries election of coverage. Model forms are not provided for notices of COBRA coverage unavailability or termination. The group health plan administrator must revise the plan's initial COBRA notice and election forms, and draft new notices of COBRA unavailability and termination to comply with the new regulations.

### **Penalty Provisions**

If the required notices are not provided, COBRA contains penalty provisions. In addition, the failure by qualified beneficiaries to provide notice of election of continued coverage may be excused, which may subject the administrator and employer who maintains the plan to potential ongoing liability for health care expenses.

More information about COBRA, including model forms and frequently asked questions and answers, can be found at [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

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