

## COBRA Time Frames

*The information contained within this FAQ was released by US Department of Labor & the Employee Benefits Security Administration on April 28, 2020.*

*The Department of Labor (Department) is issuing these Frequently Asked Questions (FAQs) to help employee benefit plan participants and beneficiaries, as well as plan sponsors, and employers, impacted by the COVID-19 outbreak understand their rights and responsibilities under Title I of the Employee Retirement Income Security Act of 1974 (ERISA). In addition to providing this general guidance, the Department has issued the following other COVID-19 notices:*

- **Department of Labor, Internal Revenue Service (IRS) and Treasury Department Joint Notice (Joint Notice).** *The Joint Notice extends certain time frames affecting a participant's right to healthcare coverage, portability, and continuation of group health plan coverage under COBRA after employment ends. The Joint Notice also extends the time for plan participants to file or perfect benefit claims or appeals of denied claims. The Joint Notice is available at <http://www.dol.gov/sites/dolgov/files/ebsa/temporary-postings/covid-19-final-rule.pdf>.*
- **EBSA Disaster Relief Notice 2020-01.** *The Disaster Relief Notice extends the time for plan officials to furnish benefit statements, annual funding notices, and other notices and disclosures required by ERISA. EBSA Disaster Relief Notice 2020-01 is available at <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/disaster-relief/ebsa-disaster-relief-notice-2020-01>.*

## ***If my place of employment temporarily closes because of the COVID-19 outbreak, am I still covered by my employer's group health plan?***

If your employer exists, continues to sponsor a health plan, and employs you, and you continue to meet your employer's eligibility requirements, you would generally remain covered under your existing health plan, even if the employer's physical location closes.

For information on coverage through a group health plan, review the plan's Summary Plan Description (a document often referred to as an SPD or insurance booklet that describes your health coverage). Contact the plan administrator and request a copy if you don't have one. The plan administrator may be able to send you one by email or direct you to a website where the SPD is posted.

Note that many plans require employee contributions, and those contributions are likely still due, even if you are not being paid and those contributions are no longer being automatically deducted from your wages or salary. If so, you may need to make this payment yourself.

## ***My employer's place of business is temporarily closed because of the COVID-19 outbreak. I cannot contact my plan administrator, or the claims administrator. Who do I contact to file a claim for benefits, or to obtain replacement identification documents?***

Many employers affected by the COVID-19 outbreak may provide special ways for employees to contact them during the outbreak. Your employer should be able to give you the name of the person to contact to obtain claim forms or other documents. If you cannot locate a contact person for your employer, you may contact one of our benefits advisors for help at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or 1-866-444-3272.

## *I think I may be losing my health coverage as a result of the COVID-19 outbreak. What can I do to obtain other health coverage?*

You may have options. Read the guidance provided in the Joint Notice, which may allow you more time to preserve your rights under the special enrollment and COBRA provisions described below.

- **Special Enrollment in Another Group Health Plan** - If other group health coverage is available (for example, if your spouse's employer offers a group health plan for which you are eligible), you may consider requesting a special enrollment period to enroll in the other plan. A special enrollment period gives you (and your family) an opportunity to enroll in a plan for which you are otherwise eligible outside of the plan's open enrollment period. To qualify, you must request enrollment, typically within 30 days of losing eligibility for other coverage. After you request a special enrollment period and enroll in a plan, coverage must be made effective no later than the first day of the month following your request for enrollment. This type of coverage might be less expensive than other options because the employer often pays a part of the premium.
- **COBRA Continuation Coverage** - If you are losing coverage through an employer that continues to offer a group health plan, you may want to consider electing COBRA continuation coverage.<sup>1</sup> COBRA generally applies to employers with 20 or more employees and allows you (and your family) to continue the same group health coverage at group rates.<sup>2</sup> Your cost may be higher than what you were paying before if your employer is no longer paying a portion of your premium during the COBRA continuation coverage period. Your plan administrator should notify you about the availability of

COBRA coverage. After getting this notice, you generally have 60 days to elect coverage and 45 days after electing coverage to make your first payment. Your COBRA coverage is then retroactive to the date that you otherwise would have lost coverage.

However, you can elect COBRA before you receive the election notice. (Note – If your special enrollment period after losing group health plan coverage has passed and you have elected COBRA, you won't be eligible for special enrollment in another group health plan, such as a spouse's plan, until you have a new special enrollment event, such as marriage, birth of a child, or if you exhaust all COBRA coverage available to you.) COBRA coverage typically lasts 18 months but may last longer in certain circumstances.

- **Special Enrollment in Individual Market Insurance Coverage** - The Health Insurance Marketplace offers information and enrollment assistance for comprehensive individual health insurance coverage. Individuals may be eligible for a premium tax credit, which will lower monthly premiums, and cost-sharing reductions, which will lower out-of-pocket costs for deductibles, coinsurance, and copayments.

Individuals who lose job-based health coverage qualify for a special enrollment period to enroll in a Marketplace plan outside of the annual open enrollment period and may select a plan within 60 days of losing job-based coverage (either 60 days before or 60 days after). The date coverage starts depends on when you lose coverage and the date a plan is selected. When applying, you may be asked to provide proof of your recent or upcoming loss of coverage.

Information on Marketplace coverage is available at HealthCare.gov or by calling 1-800-318-2596 (TTY 1-855-889-4325). Individuals who do not reside in a state that uses the HealthCare.gov platform can learn more about their state's Marketplace here: <https://www.healthcare.gov/marketplace-in-your-state/>.

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- **Health Coverage through a Government Program** - At HealthCare.gov, individuals also can find out if they qualify for free or low-cost coverage through Medicaid or the Children’s Health Insurance Program (CHIP). Medicaid is a federal/state health program administered by the state for low income families and children, pregnant women, the elderly, people with disabilities, and in some states, other childless adults.

CHIP is a federal/state partnership that provides children in families that earn too much money to qualify for Medicaid with health coverage. In some states, CHIP also covers pregnant women. You can get information on Medicaid through your state Medicaid office or by visiting <https://www.medicaid.gov/>. To learn more about the CHIP program in your state, visit [insurekidsnow.gov](https://insurekidsnow.gov).

*Note: When considering your health coverage options, you should examine the scope of the coverage (including benefit coverage and limitations), premiums, cost-sharing (including co-payments and deductibles), and any applicable waiting periods for coverage. You may also want to contact your current health care providers and the health plan(s) you’re interested in to make sure that your providers are included in your new plan’s network. For information on the coverage through a particular group health plan, you should review the plan’s Summary Plan Description (SPD). Contact the plan administrator and request a copy if you don’t have one. For more information on obtaining other health coverage, you can review “Retirement and Health Care Coverage...Questions and Answers for Dislocated Workers,” available at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/questions-and-answers-for-dislocated-workers.pdf>.*

## ***I’m enrolled in my spouse’s employer plan and my spouse died of COVID-19. My spouse’s employer has agreed to pay my health coverage premiums for a specified period of time (12 months). What effect will that have on my future eligibility for continuation health coverage under COBRA?***

You should ask the employer for more information.

<b>If the Employer is...</b>	<b>Then, when this coverage ends...</b>
Making this offer of paid coverage only if COBRA coverage is declined....	You will be ineligible for COBRA coverage, which is more expensive, but lasts longer.
Paying the first 12 months of COBRA coverage...	You can continue coverage at your own expense for up to 24 additional months or enroll on the Marketplace after the employer stops contributing through a special enrollment period.
Delaying your loss of coverage...	You will be able to have COBRA coverage at your own expense for up to 36 additional months.

You may be able to get coverage that is more affordable than COBRA coverage through the Health Insurance Marketplace, which provides special enrollment periods for certain qualifying events, including loss of qualifying health coverage due to the death of a family member or when an employer stops contributing to a temporary continuation of your coverage (such as COBRA). For more information, visit <https://www.healthcare.gov/coverage-outside-open-enrollment/special-enrollment-period/>.

***To preserve my right to receive group health coverage under certain health care coverage provisions, like COBRA and special enrollment periods, I have to provide documentation and notices to my plan within a certain timeframe. Are any of these timeframes being extended?***

Yes. The Joint Notice mentioned on page 1 provides extra time for participants and beneficiaries of group health plans to meet certain deadlines affecting COBRA continuation coverage, special enrollment, filing claims for benefits, appeals of denied claims, and external review of certain claims. For disability, retirement and other plans, participants and beneficiaries have extra time to make claims for benefits and appeal denied claims. Plans, plan administrators, and employers have extra time to provide certain COBRA notices. Read the Joint Notice in full at: <http://www.dol.gov/sites/dolgov/files/ebsa/temporary-postings/covid-19-final-rule.pdf>.

***Can my employer terminate or reduce my health benefits at any time?***

Employers offer health benefits on a voluntary basis. Federal law does not require employers to offer health coverage to their employees, nor does it generally prevent employers from cutting or reducing benefits. However, employers may have to take certain steps (such as providing advance notice) before reducing health benefits.<sup>3</sup>

If an employer terminates your health benefits, depending on the reason for termination, you and your family may have a right to continuation coverage under COBRA, if the plan still exists or a related employer still has a plan. You may also have a contractual right to coverage if, for example, benefits are required under a collective bargaining agreement. In addition, a plan cannot deny eligibility or continued eligibility based on an individual's health status.

Depending on your coverage, the law may restrict the plan or health insurer from making mid-year changes. In response to the COVID-19 outbreak, plans otherwise restricted from making mid-year changes may add telehealth and other remote health services, in addition to services related to diagnosis and treatment of COVID-19, mid-year and without providing 60 days' advance notice as required under federal law. Such plans may not limit or eliminate other benefits or increase cost-sharing, to offset the costs of those services and must provide notice of the changes as soon as reasonably practicable.

See Families First Coronavirus Response Act FAQs Part 42, Q9 and Q13 at <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-42.pdf> (setting forth non-enforcement policies for certain expansions in coverage in response to the COVID-19 outbreak).

For information on the Affordable Care Act and how it relates to employers offering health coverage, visit <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Employer-Initiatives/Employer-Initiatives>.

***I am a retiree and I receive retiree health benefits from my former employer. The company was affected by the COVID-19 outbreak. Can my retiree health benefits be terminated or changed?***

Employees and retirees should know that private sector employers are not required by law to promise retiree health benefits. When employers do offer retiree health benefits, nothing in federal law prevents them from cutting or eliminating those benefits unless they have made a specific legally binding promise to maintain the benefits. The key to understanding your retiree health benefits lies in the documents governing your plan. If you have not already done so, you should obtain a copy of the Summary Plan Description (SPD) to determine the nature of the employer's promise to you. If you do lose your retiree benefits, you may qualify for a special enrollment period to enroll in other coverage, discussed more above.

## **My employer did not pay the insurance premium for my group coverage. May I pay the premium to continue my coverage?**

You should contact your employer to determine whether the employer intends to pay the premium. You may also wish to contact your state insurance commissioner regarding any rights you may have under state law to pay premiums directly to the insurance company or convert your health coverage to an individual policy. If your premiums are in arrears or your coverage has been cancelled as a result of the employer's failure to make the premium payment, you may contact one of our benefits advisors at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or 1-866-444-3272.

## **Why is focusing on health coverage right away important when I lose eligibility for my employer's plan?**

Don't wait too long to make a health coverage decision. Several of your best choices are only available for a limited time. Generally, you must request special enrollment in your spouse's employer's plan within 30 days of losing eligibility for other health coverage, and you must elect COBRA continuation coverage within 60 days of receiving the COBRA election notice. Even though the Department has extended those timeframes in the Joint Notice, you should be aware of the limited time available to exercise your healthcare coverage options. Additionally, you must apply for special enrollment in an individual health plan within 60 days of losing employer sponsored coverage, and that timeframe has not been extended.

## ***I was laid off because of the COVID-19 outbreak and filed for unemployment benefits. I received \$600 per week of Federal Pandemic Unemployment Compensation in addition to my normal unemployment compensation. Can I use this money to pay my COBRA or other healthcare premiums?***

Yes. As part of the recent COVID-19 legislation, Congress provided for an additional \$600 per week of unemployment compensation (Federal Pandemic Unemployment Compensation) for states that enter into an agreement with the federal government. Federal Pandemic Unemployment Compensation ends on July 31, 2020. While the law does not require you to use this additional money to pay your health care premiums, maintaining your health care coverage is one of the most important things you can do in a pandemic.

<sup>1</sup> If you are Medicare-eligible, but have not enrolled in Medicare, and choose to enroll in COBRA, you may incur unexpected out-of-pocket costs for benefits paid under COBRA, as well as penalties for late enrollment in Medicare once you enroll. For more information on Medicare visit:

<https://www.medicare.gov/medicare-and-you>.

<sup>2</sup> Many states have laws similar to COBRA, including those that apply to health insurers of employers with less than 20 employees (sometimes called mini-COBRA). Check with your state insurance commissioner's office to see if such coverage is available to you.

<sup>3</sup> Individuals that experience a significant reduction in health benefits may also qualify for a special enrollment period to enroll in Marketplace coverage. See [www.healthcare.gov](http://www.healthcare.gov) for more information.