

Don't Close Off Open Enrollment To COBRA QBs

By Juli Hanshaw



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Each year employers navigate through a maze of information before they begin the ritual of annual open enrollment. For many employers, this time of change occurs in the fall, when leaves are changing. They review and modify plan designs, adjust for cost increases and consider additional benefits.

It is also a time of change for employees. They have the opportunity to adjust their current benefit package for the upcoming plan year and add or drop participants.

The employer sets up a meeting to provide information to employees and everyone enrolls for the next plan year. All bases are covered, right?

Wrong! Employers must understand what to do with COBRA qualified beneficiaries (QBs) and other covered individuals. Often overlooked, COBRA QBs have the same rights during open enrollment that active employees have. (See sidebar on p. 12 for a summary.)

The final IRS COBRA regulations confirm this fact:

If an employer or employee organization makes an open enrollment period available to similarly situated active employees with respect to whom a qualifying event has not occurred, the same open enrollment period rights must be made available to each QB receiving COBRA continuation coverage.

Employers must provide an open enrollment notification that should inform QBs of the open enrollment period. This notification needs to include all options available, monthly premium rates for each option and the open enrollment deadline date. Those required to receive this notification include:

- Possible electees — individuals in their 60-day COBRA election period

- Electees — individuals who have elected but have not yet paid during the 45-day initial COBRA payment period
- Continuees — individuals who have elected and paid for COBRA

This information is best sent before the open enrollment period starts. Detailed plan information, including a summary plan description, also can be included with the open enrollment notification.

A QB may add a spouse or dependent to the plan at open enrollment if active employees are allowed to make those same changes. If the plan permits, a QB may add a domestic partner even though they are not eligible to be offered COBRA. However, such persons added at open enrollment do not achieve QB status; they are merely covered individuals (CIs). This is the case even if they were originally offered COBRA but did not elect it.

If another qualifying event occurs, the CI does not become a QB because of the second qualifying event and need not be offered the extended coverage.

If a newborn of the covered employee is added to the plan, that newborn is given QB rights. However, the covered employee must be on COBRA to be able to add the newborn as a QB. If the covered employee never elects COBRA during the election period, but a spouse or dependent does, then any child born to or placed for adoption with the covered employee on or after the date of the would be a CI, not a QB.

What's the difference between a QB and a CI? The difference is the individual election rights while on COBRA. If a QB drops off COBRA, then any CIs would also drop off the plan as well. CIs also are not eligible for any coverage extensions.

See *Open Enrollment*, p. 12

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During open enrollment, the QB has the option to elect other types of coverages available under the group health plan if such options are provided to similarly situated active employees. For example, a QB who initially decided not to elect dental coverage would typically have the chance to elect such coverage during open enrollment.

While employers have notified the COBRA participants and have completed all that is needed for open enrollment, there is more. While providing the correct information to QBs is important, another piece of the pie includes outside providers.

Open enrollment is an opportunity to verify that QBs are being charged the accurate premium amount for COBRA. Employers are allowed to charge COBRA QBs up to 102 percent of the “applicable premium” for continuation coverage, 150 percent during the disability extension. If employers are not collecting the premiums, employers should provide the plans, rates and options available for QBs to the third party handling the COBRA premium payments.


Additionally, the premium for each determination period must be calculated and fixed by the group health plan before the determination period begins. A determination period is any 12-month period selected by the plan, but it must be applied consistently from year to year. The determination period is a single period for any

Open Enrollment: Tips to Remember

- Employers must provide an open enrollment notification that should inform QBs of the open enrollment period.
- A QB may add a spouse, dependent or domestic partner to the plan if active employees are allowed to make those same changes. However, such persons do not achieve QB status.
- The QB has the option to elect other types of coverages available under the group health plan.
- Open enrollment is an opportunity to verify that QBs are being charged the accurate premium amount for COBRA.
- Health flexible spending arrangements are another open enrollment challenge, depending on HIPAA and USERRA issues. 

benefit package. Therefore, each QB does not have a separate determination period. Communicating the new COBRA premium during open enrollment is a critical step.

Health flexible spending arrangements (FSAs) are another open enrollment challenge. If the health FSA is a HIPAA-excepted benefit and the employer need only offer COBRA when the FSA account is underspent, then the COBRA obligation ends at the end of the first plan year. However, if the employer somehow does not qualify for the limited obligation, the employer must provide the opportunity to elect health FSA coverage for the next plan year. Also, if the COBRA period is also covered by the Uniformed Services Employment Uniformed Services Employment and Reemployment Rights Act of 1994 because of a military leave of absence, the employer must continue to offer the health FSA.

Open enrollment just changed from an easy walk in the park to a maze of information to remember. Employers cannot risk forgetting to include COBRA QBs in open enrollment. Providing all the information, as they do for active employees, is a critical part of the process. Making sure premium information is communicated and changes are made appropriately and timely are beneficial to both QBs and employers. Don't make the critical mistake of forgetting this group. 

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