

Going Above and Beyond The Required COBRA Notices

By Juli Hanshaw

COBRA is a notice-driven law. By any measure, the list of required notices exceeds a dozen. But good reasons exist to provide more than what is required.

In this article, we will address four optional notices that potentially ease the COBRA burden, instead of adding to it.

1. Election Confirmation Letter

A good practice of one nonrequired notice is sending out a letter upon receiving an election. This letter is a good idea to confirm receipt of the qualified beneficiary's (QB's) election and to review any procedures for the continuation coverage to remain in effect.

Items this letter could include:

- A time frame for how long it will take for the reinstatement of coverage to occur.
- Guidelines for paying the continuation coverage, including who to make checks payable to and where to mail the checks.
- Whether credit card payments, ACH or payments from online bill payment services are allowed.
- Course of action for refunds.
- Reasons COBRA coverage would terminate for a QB.
- What could extend the COBRA time frames.
- Who a QB may contact with questions about continuation coverage.
- Information on any online access regarding payments made and premiums due.

While this type of letter is not necessary, it would be helpful to reiterate to the QBs the guidelines set before them and how payments are processed. Even though some of these questions may be provided in the election

notice, it certainly can't hurt to provide them again at the point of election.

2. Monthly Invoice

Although not a requirement, many companies provide a monthly invoice to QBs. This is a good practice to implement because it:

- Provides a reminder to QBs of coverages, grace period end dates and premium amounts.
- Provides information that premiums are deemed made on the date postmarked on the envelope.
- Provides information on changing option levels during the continuation coverage period (that is, going from two person to single coverage).
- Reiterates that paying the premium does not guarantee eligibility for plan coverage and all group health plan rules apply.
- Provides an ongoing notice of the major COBRA rules (for example, QB notification procedures, including why coverage may terminate early).
- Provides guidance on the type of payments allowed: credit card, ACH, online bill payment services and/or checks.
- Provides updated information related to COBRA coverage (for example, premium subsidies and the health coverage tax credit).
- Reduces QB phone calls to employers, insurers and/or administrators questioning when a premium is due and the amount due.

3. Subsidy Expiration Notice

Another nonrequired notice deals with the American Recovery and Reinvestment Act of



Juli Hanshaw has more than 13 years of experience with COBRA and works directly for the president of Infnisource, Inc., which provides COBRA, flexible benefit, payroll and other administrative services to more than 15,000 employers nationwide.

See *COBRA Notices*, p. 10

Brand new edition of *Wellness Programs* guide! Go to www.thompson.com/wellness2.

COBRA Notices (continued from p. 9)

2009, which provided QBs with a reduced premium for 15 months, if they met criteria in the law (see ¶1286 of the *Guide*). While it is not mandatory to send any notification of the subsidy period ending, it is a good idea to make sure there are no misunderstandings of when the QB will begin paying the full premium for continuation coverage.

The letter could provide the following information:

- Subsidy period end date
- Full 102 percent of the premium due instead of the reduced 35-percent premium
- A review of procedures if the full premium is not received on a timely basis
- A review of the process to change option levels for COBRA elections due to the higher premium cost

4. COBRA Coverage Expiration Notice

Expiration notices are also not a prerequisite under a COBRA administration program; however, this is a good plan of action for many reasons. When a QB's continuation coverage is about to end, let's say 30 days beforehand, a notice to inform the QB of the upcoming date

will assist the QB in preparing to secure other coverage for the post-COBRA period.

The notice (or letter) could explain:

- 1) coverages the QB had elected and paid during the continuation coverage period;
- 2) when coverage began for COBRA;
- 3) the continuation coverage expiration date (that is, when COBRA coverage ends and is no longer available to the QB);
- 4) the number of days the QB was on continuation coverage (this could be different for coverages if the QB picked up a coverage during open enrollment);
- 5) how to extend the COBRA coverage period for 18-month events;
- 6) the requirements for a QB to receive an extended period of coverage (29 months) for a disability determination;
- 7) the requirements for the disability extension to be applied to the QB's COBRA time frame;
- 8) that the COBRA disability extension could cause the premium to change from 102 percent to up to 150 percent, which would begin with month 19;
- 9) any other type of secondary qualifying events that would extend a QB's COBRA coverage, such as death of the covered employee, divorce or legal separation, the covered employee's Medicare entitlement or the cessation of dependent status;
- 10) how the events in item 9 could extend continuation coverage to 36 months from the original qualifying event;
- 11) secondary event reporting procedures and any deadlines required for the events to be reported to the plan administrator;
- 12) reasons COBRA coverage will terminate, including coverage expiration due to the maximum time limit being reached, early termination events (such as payment not received on a timely basis), entitlement to Medicare and coverage by another group health plan without pre-existing conditions and limitations;
- 13) HIPAA and COBRA coordination, with reference to pre-existing condition exclusion periods and special enrollment rights into another group

THOMPSON

Learn Step-by-Step
Wellness Strategies that
Improve Employee Health
and YOUR Bottom Line.

Call 1-800-677-3789
for more information on *Wellness
Programs: Employer Strategies and
ROI* — Thompson's NEW guide
to choosing and implementing
wellness plans, selling them to
employees and management and
measuring their ROI.

Plus, EARN 1.5 HRCI CREDITS.
Upon payment you'll get an exclusive
CD recording of our accredited audio
conference "Best Practices for Wellness
Programs: How to Motivate Employees to
Make Lifestyle Changes"

See *COBRA Notices*, p. 11

New! *Questions Answered on Health Care Reform*. Go to ahcmedia.com/healthreform

COBRA Equal Access Bill Reintroduced

A bill that would give domestic partners the same rights to COBRA coverage as married spouses was introduced March 10 by Sen. Barbara Boxer (D-Calif.).

Boxer had also introduced the bill in the last session of Congress, where it stalled. Just like the earlier bill, the latest version would apply to companies that already offer health coverage to domestic partners and their children. Currently, more than half of Fortune 500 companies cover domestic partners under their health plans, according to a press release from Boxer's office.

"All of our families deserve equal access to health insurance. This bill would help ensure that domestic partners and their families will be able to keep their health coverage if their partner loses their job," said Boxer in a statement.

Specifically, the legislation would add to the definition of "qualified beneficiary" the following persons: (1) the domestic partner of the employee, as defined by the group health plan; and (2) the dependent child of the domestic partner. For purposes of a qualifying event that is a bankruptcy proceeding, a "qualified beneficiary" would be expanded to include the covered employee's domestic partner, a surviving domestic


partner and dependent child of a covered employee's domestic partner.

COBRA's notice requirements also would be revised to require that plan administrators provide a COBRA election notice to a "covered employee's qualified beneficiaries who are age 19 or older" — not just the spouse (in addition to the covered employee). The change would become effective for plan years beginning 180 days after the law is enacted. Collectively bargained plans would have longer to comply.

The bill, S. 563, was referred to the Senate Committee on Health, Education, Labor and Pensions. A companion House bill, the Equal Access to COBRA Act of 2011 (H.R. 1028), was referred to the House Committees on Education and the Workforce, Energy and Commerce, and Ways and Means.

Other COBRA-related Bills in Congress

Here are other bills that got introduced in the early days of the 112th Congress:


- **The Health Care and Training for Older Workers Act (S. 150)**, which would provide up to 36 months of COBRA coverage for early retirees not yet entitled for Medicare. The coverage would end early if the individual became entitled before the 36-month period expired. The provision would be repealed effective Jan. 1, 2014. Introduced by Sen. Herb Kohl (R-Wis.) on Jan. 25, the bill was referred to the Senate Committee on Health, Education, Labor, and Pensions.
- **S. 221 and The Trade Extenders Act of 2011 (S. 308)**, which would extend expired provisions related to premium assistance under trade adjustment assistance programs through June 30, 2012. S. 221 was introduced by Sen. Sherrod Brown (D-Ohio) on Jan. 27. S. 308 was introduced by Sen. Bob Casey, Jr. (D-Pa.) on Feb 8. Both bills were referred to the Senate Finance Committee. 

COBRA Notices (continued from p. 10)

health plan after the end of continuation coverage; and

- 14) the conversion options available following COBRA's expiration (once again, because the conversion notice is a required notice and was already mailed to the QB).

While none of these notices or letters is mandatory under COBRA law, you can see the benefits in including them in a high-quality COBRA administration program. Each one provides information — maybe even reiterates what QBs have already been told — and becomes beneficial to help QBs understand dates, deadlines, premiums and requirements. These notices can cut down on irritating phone calls and after-the-fact complaints.

Ask anyone who has met a judge in a courtroom to support their COBRA program and many wish they had the extra documentation to QBs to provide proof of what the QBs were told — sometimes over and over again. So while these notifications are not required, they may be something you want to add to your program as an internal company requirement. 

**When it's time to renew
your subscription ...**

Go to
www.thompson.com/renew
We'll walk you through the process.

It's that easy!

Brand new edition of *Wellness Programs* guide! Go to www.thompson.com/wellness2.