

# COBRA Procedures for Employers

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The following pages outline frequently performed administrative procedures and commonly accepted practices for COBRA administration using **Solo®** or **Maxim®**. They should be used in combination with the CCH COBRA Basics Manual. They are not intended to provide guidance in every situation.

Due to the complexity of COBRA, the necessity for making a judgement in the face of a particular compliance issue, and the possibility of changes to the Regulations or re-interpretation of the Regulations by the IRS or the courts, we cannot guarantee that these procedures will assure your compliance with COBRA. You are the Plan Administrator and have full responsibility for COBRA compliance. If these reference materials do not provide adequate guidance, please contact an attorney.

We encourage you to review these procedures for accuracy and compliance with the Regulations, make any necessary changes to fit your particular practices and those of your insurance carriers, and adopt the final procedures as your company's practices. In combination with the **Solo** or **Maxim** software program and the **CCH COBRA Basics Manual**, they should constitute a workable "procedures manual" as required by the Internal Revenue Service.

The Affordable Solutions Team  
November 7, 2003

## Initial COBRA Rights Notice

### Newly Covered Employees and Covered Spouses

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COBRA requires that the Plan provide notice of COBRA rights and obligations to covered employees and covered spouses when coverage is first effective. The notice must be sent by first class mail to the home to the attention of the covered employee and, if any, the covered spouse. Although the regulations are silent, it is prudent to provide this required notice within 30 days of the coverage effective date.

	<b>Action</b>
<b>Notified that an employee and, if any, a spouse is newly covered.</b>	<b>Add Employee and a spouse, if any, as Active. Print notice and mail to employee and, if any, the spouse at their home. Both names need to be on the Notice and on the envelope.</b>
<b>When a spouse is being added as a dependent.</b>	<b>Add the spouse to the employee's record. Print Notice and envelope and mail to spouse at their home.</b>
<b>Substantive change in COBRA regulations or regulatory guidance that prompts a re-issuance of the notice.</b>	<b>Print Notices and mail to all covered employees and, if any, covered spouses using proper mailing procedure.</b>

## **Receive Notice of an Initial Qualifying Event**

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The “Employer” has 30 days to notify the “Plan Administrator” of a Qualifying Event due to termination, loss of hours, death of employee or employee entitlement to Medicare. The Plan Administrator has 14 days to issue the Notice. If the employer is also the Plan Administrator (as defined by ERISA), then the Plan Administrator has a total of 44 days to issue the Election Notice.

An employee or Qualified Beneficiary has 60 days to provide notification of a Qualifying Event due to divorce or legal separation or a loss of dependent status. The Plan Administrator has 14 days to issue the Notice.

Before issuing the Notice:

- ❖ Verify that coverage was in effect the day before the Qualifying Event and that it will be lost.
- ❖ If notice is required from the employee or Qualified Beneficiary, verify that it is within the 60 day notice requirement.
- ❖ Notify insurance carrier(s) that coverage is terminated.

	<b>Action</b>
Receive notice of a Qualifying Event.	<b>Within the 44 or 14 day deadline, create the Election Notice and envelope and mail to the PQB and any secondary beneficiaries at their last known mailing address using proper mailing procedure that requires the name of the PQB and, if any, the spouse on the envelope.</b>
Notice that a spouse has been dropped from the plan. Need to verify and document if it was in anticipation of divorce. If it is, an extension to 36 months from the date of divorce may be required after verification.	<b>This function is not available within Solo. You will need to create a letter to notify the spouse that coverage is terminated and remind them of the anticipation of Qualifying Event rule. You can find proper language on the Initial Notice in the Solo Notice Editor.</b>
Notice from an employee or QB is received more than 60 days from the Qualifying Event	<b>Enter all information including Qualifying Event dates. Do not issue an Election Notice. Instead, create a Custom Letter notifying them that COBRA will not be offered and that active coverage is ceasing. Change the Results Status from Pending Enrollment to Missed Deadline.</b>

## **Receive COBRA Election and Initial Premium**

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COBRA requires that an Election is made within 60 days from the date of RECEIPT. Both elections and premiums are considered made on the day the form is sent. A verbal election should be treated as an election. If initial premium is received at the same time as the Election Notice, reinstate coverage retroactively for the months for which payment was made.

- ❖ **After receiving the Election Form, terminate any Qualified Beneficiaries who do not elect COBRA.**
- ❖ **Change Response Result in PQB Status to Elected.**
- ❖ **Record benefit elections in Elections.**
- ❖ **Issue Confirmation Letter in Elections.**
- ❖ **Issue Payment Instructions or Coupons.**
- ❖ **Record receipt of any premium in Premiums.**
- ❖ **Notify insurance carriers of coverage reinstatement.**

## **Receive COBRA Election *Without* the Initial Premium**

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COBRA requires that an Election Notice is returned within 60 days and that the initial COBRA premium be paid within 45 days of the election. Premiums are deemed paid when sent. A verbal election should be treated as an election. If the initial premium arrives after the 45-day deadline, examine and document the postmark and other facts, and do not reinstate coverage. If the premium is not received within the deadline, it may prudent to advise the Qualified Beneficiary that COBRA coverage is not in effect.

- ❖ **Enter the date received in the PQB Status.**
- ❖ **Change Response Result in PQB Status to Elected Awaiting Premium.**
- ❖ **Record the benefit elections in Elections.**
- ❖ **Issue Confirmation Letter in Elections.**
- ❖ **Issue Payment Instructions or Coupons in Payment Instructions.**
- ❖ **If the premiums are NOT received within the 45-day deadline, change the Response Result to Missed Deadline and terminate the benefit elections. You can issue a letter from PQB Status.**
- ❖ **When the premiums are received, use the instructions above as a general guide. You will want to change the Response Result to Elected and record the premiums. In addition, you will want to reinstate coverage.**

## **Receive and Administer COBRA Premiums**

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COBRA requires that Qualified Beneficiaries have a minimum 30-day Grace Period from the beginning of the billing period for payment of premiums. COBRA premiums can be paid monthly or in advance. **YOU CANNOT REQUEST PAYMENT IN ADVANCE OF THE END OF THE GRACE PERIOD.** Due to the inherent lag in receipt of COBRA payments, you may find it necessary to pay the COBRA premiums for the Qualified Beneficiaries and consider their payment as reimbursement.

The Final Regulations stipulate that premiums paid that are 10% or \$50.00, whichever is less, will be considered insignificantly less than the amount due. The Qualified Beneficiary must be given at least 30 days to make-up the difference after notification by you. Alternatively, the employer can accept the “insignificant payment” as payment in full. Partial payments outside of the “insignificant” threshold can be returned and, after the Grace Period expires, COBRA can be terminated. NSF checks, if not replaced within the Grace Period, can be grounds for termination.

- ❖ **Verify that payment is made within the Grace Period. Premiums are considered “made” on the date sent. Use the postmark if available.**
- ❖ **Record payment in Premiums.**
- ❖ **If a partial payment is made within the “insignificant threshold”, record and allocate premium, create Partial Payment Letter and mail to the PQB. Using the Partial Payment Report, monitor receipt of the balance.**
- ❖ **If it is your stated policy, you can issue a Late Payment Letter towards the end of the Grace Period.**
- ❖ **If termination occurs due to non-payment, enter the Termination Date and issue the appropriate letter in the Termination function box.**
- ❖ **Notify the insurance carrier that COBRA coverage has terminated.**

## **Receive Notice of a Second Qualifying Event**

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COBRA requires an extension to 36 months if, during the original 18-month period, a Qualified Beneficiary loses coverage due to the following Qualifying Events: Divorce, Legal Separation, Death of the Employee, or Loss of Dependent Status. Notification must be received within 60 days of the Qualifying Event and Notice provided within 14 days. Notification can be written or verbal. If verbal or written information comes from a third party, it should be followed-up.

If the notification is not received within the 60 days and after carefully evaluating all of the facts, notify the employee or Qualified Beneficiary that the extension is not allowed.

- ❖ **In Family Status, initiate the Second QE procedure for the affected Qualified Beneficiary.**
- ❖ **Create and mail a new Election Notice that will display the rate(s) if they extend coverage.**
- ❖ **When appropriate, change the Response Result in PQB Status.**
- ❖ **Enter any Elections.**
- ❖ **Create any premium payment instructions.**
- ❖ **Record premiums as received.**
- ❖ **Notify insurance carriers of extension.**
- ❖ **Modify the record of the ex-employee PQB. Refer to the User's Manual.**

## **Receive Notice of Disability from the SSA**

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COBRA requires an extension to 29 months if, during the original 18-month period, a Qualified Beneficiary is disabled as determined by the Social Security Administration. Disability must exist during the first 60 days of COBRA coverage and a determination made prior to the end of the original 18-months.

The employer must be notified within 60 days of the determination through presentation of the SSA determination letter. Premium may be increased to 150% of the applicable active plan premium during the extension as long as the disabled Qualified Beneficiary is part of the coverage group. Contact your insurance carrier(s) for information on their policy.

Note: All Qualified Beneficiaries in the unit have an independent right to elect the extension. The disabled Qualified Beneficiary does NOT have to participate.

If the SSA determines that the individual is no longer disabled, they are required to notify the employer within 30 days and COBRA coverage can be terminated for all Qualified Beneficiaries.

- ❖ **If you have not done so previously, contact the Insurance Carrier to confirm their policy for COBRA rates for SS Disabilities. If necessary, set up the Social Security Disability Plans in Setup.**
- ❖ **Upon receipt of SS Determination Letter, go to the COBRA Qualifying Event function box and check the Disability Tracking in Effect box.**
- ❖ **In Solo, follow the sequence of requested information and follow the appropriate instructions for entering the information.**
- ❖ **If the Disability Extension is accepted by any of the Qualified Beneficiaries, you will notify the insurance carrier.**
- ❖ **Refer to the User's Manual for detailed instructions. Because of the complex rules surrounding SS Disability Extension, you may need to edit the standard Notices and Letters we have provided.**

## Termination of COBRA

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A. Expiration of COBRA: If COBRA is terminating due to the expiration of the continuation period, then a notice must be mailed to the PQB and Spouse within six months prior to the expiration.

B. Early Terminations of COBRA:

Premium not paid on time. Premiums are paid on the date “sent”. Typically, measured by a postmark. The final regulations have added new rules for insignificant premium shortfalls.

After the date of the COBRA election, the Qualified Beneficiary becomes entitled to Medicare.

After COBRA election, the Qualified Beneficiary becomes covered by another group health plan. If the new plan has pre-existing limitations or exclusions that apply to the Qualified Beneficiary, COBRA can be terminated only after the limitation or exclusion is satisfied.

Employer ceases to maintain any group health plan.

No Longer Disabled. If coverage has been extended under the Disability Extension and the Qualified Beneficiary who had been determined to be disabled is no longer disabled by determination of the SS Administration, then coverage ceases for all Qualified Beneficiaries.

For cause. COBRA participant violates some contractual provision in a health plan that would cause termination for non-COBRA beneficiaries, e.g. fraudulent submission of claims.

- ❖ **Before the expiration of the continuation period, create and issue a Maximum Continuation Notice. Be sure to comply with any State regulations.**
- ❖ **At termination, enter the date and reason in the Termination function box. Issue a Letter as appropriate.**
- ❖ **Notify insurance carriers of termination.**