



# COBRA

# VERMONT

## Comparison of Federal and Vermont Continuation Laws

	FEDERAL (COBRA)	VERMONT
<b>Covered Employers and Plan Coverage</b>	Group health plans maintained by private-sector employers with 20 or more employees, employee organizations, or state or local governments; coverage must be identical to that available to similarly situated beneficiaries who are not receiving COBRA coverage under the plan (generally, the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage)	All group health insurance policies, including dental policies, self-insured group plans and prepaid health insurance plans, other than policies covering specific diseases or accidental injuries only.  Applies only to dental, hospital and medical benefits.
<b>Qualified Beneficiaries (Employee / Dependents)</b>	Individual covered by a group health plan on the day before a qualifying event - either an employee, the employee's spouse, or an employee's dependent child. In certain cases, a retired employee, the retired employee's spouse, and the retired employee's dependent children may be qualified beneficiaries. In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary. Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.	Any person whose insurance under the group policy would terminate because of the occurrence of a qualifying event.
<b>Continuation Period</b>	<p>18 months - COBRA beneficiaries generally are eligible for group coverage during a maximum of 18 months for qualifying events due to employment termination or reduction of hours of work.</p> <p>29 months - Disability can extend the 18 month period of continuation coverage for a qualifying event that is a termination of employment or reduction of hours. If certain requirements are met, the entire family qualifies for an additional 11 months of COBRA continuation coverage. Plans can charge 150% of the premium cost for the extended period of coverage.</p> <p>36 months - Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.</p> <p>36 months - Under COBRA, participants, covered spouses and dependent children may continue their plan coverage when they would otherwise lose coverage due to divorce (or legal</p>	18 months

	separation) for a maximum of 36 months.	
<b>Qualifying Events</b>	<p><b>Qualifying Events for Employees:</b> Voluntary or involuntary termination of employment for reasons other than gross misconduct – 18 months</p> <p>Reduction in the number of hours of employment – 18 months</p> <p><b>Qualifying Events for Spouses:</b> Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct – 18 months</p> <p>Reduction in the hours worked by the covered employee – 18 months</p> <p>Covered employee's becoming entitled to Medicare – 36 months</p> <p>Divorce or legal separation of the covered employee – 36 months</p> <p>Death of the covered employee – 36 months</p> <p><b>Qualifying Events for Dependent Children:</b> Loss of dependent child status under the plan rules – 36 months</p> <p>Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct – 18 months</p> <p>Reduction in the hours worked by the covered employee – 18 months</p> <p>Covered employee's becoming entitled to Medicare – 36 months</p> <p>Divorce or legal separation of the covered employee – 36 months</p> <p>Death of the covered employee – 36 months</p>	<p>Loss of employment, including reduction in hours</p> <p>Divorce, dissolution or legal separation of covered employee from employee's spouse or civil union partner</p> <p>Dependent child ceasing to qualify as dependent child under policy</p> <p>Death of covered employee/member</p>
<b>Eligibility</b>	To be eligible for COBRA coverage, must have been enrolled in employer's health plan when employed and health plan must continue to be in effect for active employees. COBRA continuation coverage is available upon the occurrence of a qualifying event that would, except for the COBRA continuation coverage, cause an individual to lose his or her health care coverage.	<p>Continuation coverage is not available if:</p> <ul style="list-style-type: none"> <li>• Deceased person or employee was not insured under group policy on date of qualifying event;</li> <li>• Person is covered by Medicare;</li> <li>• Person has other group dental or hospital and medical coverage under which the person was not covered prior to the qualifying event and no</li> </ul>

		<p>preexisting condition exclusion applies; or</p> <ul style="list-style-type: none"> <li>• The person was terminated for misconduct.</li> </ul>
<p><b>Notice Requirements</b></p>	<p>Employers or health plan administrators must provide an initial general notice when employee is hired if entitled to COBRA benefits.</p> <p>When no longer eligible for health coverage, employer has to provide a specific notice regarding rights to COBRA continuation benefits.</p> <p>Employers must notify their plan administrators within 30 days after an employee's termination or after a reduction in hours that causes an employee to lose health benefits.</p> <p>The plan administrator must provide notice to individual employees of their right to elect COBRA coverage within 14 days after the administrator has received notice from the employer.</p> <p>Employee must respond to this notice and elect COBRA coverage by the 60th day after the written notice is sent or the day health care coverage ceased, whichever is later. Otherwise, employee will lose all rights to COBRA benefits.</p> <p>Spouses and dependent children covered under such health plan have independent right to elect COBRA coverage upon employee's termination or reduction in hours.</p>	<p>Notice of continuation and conversion privileges must be included in each certificate of coverage. Notice of continuation privilege must be provided by employer to employee within 30 days following occurrence of any qualifying event.</p> <p>Person electing continuation must notify in writing within 60 days of notification of right of continuation. Initial contribution must accompany notice of election, which shall include payment for period from qualifying event through end of month in which election is made.</p>
<p><b>Termination of Coverage</b></p>	<p>Coverage begins on the date that coverage would otherwise have been lost by reason of a qualifying event and will end at the end of the maximum period. It may end earlier if:</p> <p>Premiums are not paid on a timely basis.</p> <p>The employer ceases to maintain any group health plan.</p> <p>After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of such beneficiary. However, if other group health coverage is obtained prior to the COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.</p> <p>After the COBRA election, a beneficiary becomes entitled to Medicare benefits. However, if Medicare is obtained prior to COBRA election,</p>	<p>Coverage will terminate:</p> <ul style="list-style-type: none"> <li>• 18 months after date insurance under policy would have terminated due to a qualifying event;</li> <li>• Payment of contribution not timely;</li> <li>• Person is covered by Medicare;</li> <li>• Person is covered by any other group insured or uninsured arrangement that provides group dental coverage or hospital and medical coverage under which person was not covered immediately prior to occurrence of qualifying event, and no preexisting condition exclusion applies; or</li> <li>• Date group policy is terminated and not replaced.</li> </ul> <p>Dependent coverage extension</p>

	COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.	may be terminated upon the marriage of the dependent.
<b>Conversion Rights</b>	Some plans allow participants and beneficiaries to convert group health coverage to an individual policy. If this option is generally available from the plan, a qualified beneficiary who pays for COBRA coverage must be given the option of converting to an individual policy at the end of the COBRA continuation coverage period. The option must be given to enroll in a conversion health plan within 180 days before COBRA coverage ends. The premium for a conversion policy may be more expensive than the premium of a group plan, and the conversion policy may provide a lower level of coverage. The conversion option, however, is not available if the beneficiary ends COBRA coverage before reaching the end of the maximum period of COBRA coverage.	Any person whose insurance would terminate because of death or loss of employment of employee or member is entitled to converted policy, without evidence of insurability. The converted policy must not exclude preexisting conditions covered by the group plan. Written application and first premium payment must be made not later than 30 days prior to date of termination of continuation of group policy.  Insurer is not required to issue converted policy if person not entitled to or failed to elect continuation coverage, person eligible for Medicare or another individual policy with similar benefits, or person covered for similar benefits by reason of state or federal law and together with converted policy benefits result in overinsurance.
<b>Other</b>		
<b>Applicable Statutes</b>	IRC § 4980B, ERISA §601 <i>et seq.</i>	Vermont Stats. Annot. Title 8 §§ 4089d, 4090a to 4090e, 4089d
<b>Government Agency Contact</b>	Depts. of Labor and Treasury (private sector plans); Dept. of Health and Human Services (public sector plans)	Division of Insurance (802) 828-3301

*This Chart is provided to you for general informational purposes only. It broadly summarizes state and federal statutes, but does not include references to other legal resources (e.g., supporting regulations, or formal or informal opinions of state offices of commissioners of insurance) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.*

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(8/06; EAS 2/10)



# COBRA

# Federal Update

## Update of Federal COBRA

### FEDERAL COBRA PREMIUM SUBSIDY

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended, provides a 65 percent COBRA premium subsidy for employees and their dependents who are involuntarily terminated from employment between September 1, 2008 and May 31, 2010.

**Eligibility/Premium Assistance:** An individual who is involuntarily terminated from employment between September 1, 2008 and May 31, 2010, and timely elects COBRA, is an "assistance eligible individual" or "AEI" eligible for the COBRA premium subsidy. Employees who experienced a reduction in hours before their termination may also be eligible for the subsidy. The subsidy lasts for up to 15 months, or until the individual is eligible for other group health plan coverage or Medicare, if earlier.

**Extended Election Period:** Employees who were involuntarily terminated on or after September 1, 2008 but did not elect COBRA were given a special election period, beginning February 17, 2009 and ending 60 days after notice of the election opportunity was given. Also, if an employee lost coverage due to a reduction in hours of employment, did not make (or discontinued) a COBRA election and was later involuntarily terminated on or after March 2, 2010, the individual may be eligible to elect COBRA coverage and receive the premium subsidy.

**Plan Enrollment Option:** A plan may permit an individual to enroll in different coverage if it is also offered to active employees, is major medical coverage, and the premium does not exceed the premium of the individual's prior coverage.

**Notice Provisions:** Plans must notify certain current and former enrollees of the premium subsidy. The Department of Labor has created model notices for this purpose. A **General Notice** including information on the subsidy and election information must be given to all qualified beneficiaries who experience any type of qualifying event from September 1, 2008 through May 31, 2010. Individuals who received notices that were not complete due to later extensions of the law should receive a **Supplemental Information Notice**. Certain individuals may be entitled to a **Notice of New Election Period** or **Extended Election Period**. Insurance issuers providing coverage under state law must provide an **Alternative Notice**.

**APPLICATION TO STATES:** Continuation coverage under a state program providing comparable coverage (i.e., state "mini-COBRA" laws applicable to employers with fewer than 20 employees) is subject to the COBRA premium subsidy and notice provisions of ARRA. ARRA does not change any requirement of a State continuation coverage program. ARRA only allows Assistance Eligible Individuals who elect continuation coverage under State insurance law to receive a premium reduction for up to 15 months. It also allows Assistance Eligible Individuals to switch to other coverage offered to active employees if permitted by the plan provided that the new coverage is no more expensive than the prior coverage. States were permitted, but not required, to offer an extended election period.

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