



## The COBRA Payment Process

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) allows qualified beneficiaries who lose health benefits due to a qualifying event to continue group health benefits. The COBRA payment process is subject to various rules in terms of grace periods, notification, premium payment methods, and treatment of insignificant shortfalls.

### Grace Periods

The initial premium payment is due 45 days after the qualified beneficiary elects COBRA. Premium payments must be made on time; otherwise, a plan may terminate COBRA coverage. Generally, subsequent premium payments are due on the first day of the month. However, under the COBRA grace period rules, premiums will still be considered timely if made within 30 days after the due date. The statutory grace period is a minimum 30-day period, but plans may allow qualified beneficiaries a longer grace period.

A COBRA premium payment is made when it is sent to the plan. Thus, if the qualified beneficiary mails a check, then the payment is made on the date the check was mailed. The plan administrators should look at the postmark date on the envelope to determine whether the payment was made on time. Qualified beneficiaries may use certified mail as evidence that the payment was made on time.

The 30-day grace period applies to subsequent premium payments and not to the initial premium payment. After the initial payment is made, the first 30-day grace period runs from the payment due date and not from the last day of the 45-day initial payment period.

If a COBRA payment has not been paid on its due date and a follow-up billing statement is sent with a new due date, then the plan risks establishing a new 30-day grace period that would begin from the new due date.

### Notification

The plan administrator must notify the qualified beneficiary of the COBRA premium payment obligations in terms of how much to pay and when payments are due; however, the plan does not have to renotify the qualified beneficiary to make timely payments. Even though plans are not required to send billing statements each month, many plans send reminder statements to the qualified beneficiaries.

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While the only requirement for plan administrators is to send an election notice detailing the plan's premium deadlines, there are three circumstances under which written notices about COBRA premiums are necessary. First, if the COBRA premium changes, the plan administrator must notify the qualified beneficiary of the change. Second, if the qualified beneficiary made an insignificant shortfall premium payment, the plan administrator must provide notice of the insignificant shortfall unless the plan administrator chooses to ignore it. Last, if a plan administrator terminates a qualified beneficiary's COBRA coverage for nonpayment or late payment, the plan administrator must provide a termination notice to the qualified beneficiary.

The plan administrator is not required to inform the qualified beneficiary when the premium payment is late. Thus, if a plan administrator does not receive a premium payment by the end of the grace period, then COBRA coverage may be terminated. The plan administrator is not required to send a notice of termination in that case because the COBRA coverage was not in effect. On the other hand, if the qualified beneficiary makes the initial COBRA premium payment and coverage is lost for failure to pay within the 30-day grace period, then the plan administrator must provide a notice of termination due to early termination of COBRA coverage.

### **Premium Payment Methods**

The plan administrator must allow payments to be made in monthly installments, but can also permit payments weekly, quarterly, or semi-annually.

As mentioned above, each plan must provide an election notice to notify the qualified beneficiary of the monthly premium amount, the premium due date, and the grace period. In addition to the election notice, plans also use one of the following methods for the payment and collection of COBRA premiums:

- The plan does not provide any further statements.
- The plan provides a statement for each premium.
- The plan provides a coupon book detailing the due date and grace period for each payment.
- The plan uses one of the three methods described above and also provides a notice after the due date and before the grace period expires to notify the qualified beneficiary that coverage will be terminated unless a payment is made before the grace period expires.

Plans may permit the following payment methods to pay for COBRA premiums:

- Regular check sent via first-class mail
- Money order or certified check
- Credit card, but the qualified beneficiary may incur an additional fee
- Electronic funds transfer (ETF) or check, but the qualified beneficiary may incur an additional fee

If a qualified beneficiary receives severance or other separation payments from an employer, the employer and employee may agree that COBRA premiums will be withheld from the pay.

### **Payments by Third Parties**

Plan administrators must accept COBRA premium payments from anyone making payments on behalf of a qualified beneficiary. As a result, third parties, hospitals, or employers can make payments. State Medicaid programs may pay COBRA premiums for eligible individuals, especially if the state determines that savings in Medicaid will exceed the cost of the premiums.

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A new employer may pay COBRA premiums for a former employer's plan, especially until coverage under the new employer's plan becomes effective. Practically speaking, employers generally do not pay for COBRA coverage under a former employer's plan because they do not want the liability risk. As an alternative to paying for COBRA, an employer who wants to help its new employee pay for COBRA coverage under another employer's plan can increase the new employee's pay to cover the COBRA premium payments.

### **Insignificant Payment Shortfalls**

A premium payment shortfall is insignificant if it is less than or equal to the lesser of either \$50 or 10 percent of the COBRA premium required by the plan.

Under the COBRA regulations, an insignificant payment shortfall will be deemed paid. However, the plan administrator has a choice to ignore the payment shortfall or send a notice to the qualified beneficiary. If the plan notifies the qualified beneficiary of the deficiency and grants a reasonable period (at least 30 days) for payment, then the qualified beneficiary must pay the difference.

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