

COBRA: FINAL NOTICE REGULATIONS

The U.S. Department of Labor recently issued final COBRA notice regulations. These regulations apply to all group health, dental and vision plans sponsored by employers with twenty or more employees (in Illinois, employees covered by group plans with two or more participants may also have rights to continuation coverage under state law). The regulations are effective for plan years beginning on or after November 26, 2004 (for calendar year plans, compliance is required as of January 1, 2005). The highlights of the COBRA notice regulations include:

- The regulations prescribe model COBRA notices, including the general notice of COBRA rights for newly covered employees and the COBRA election notice to be given to employees and beneficiaries who have incurred a qualifying event such as loss of employment, death or divorce. These notices are available on-line at www.dol.gov/ebsa/modelgeneralnotice.doc and at www.dol.gov/ebsa/modelelectionnotice.doc.
- Covered plans must establish “reasonable procedures” for employees and covered dependants to follow when providing notice to the plan of certain qualifying events, such as divorce, legal separation, a Social Security determination of disability and a child’s failure to meet coverage requirements relating to age or status as a full-time student.
- Employers who are plan administrators will have 44 days to give beneficiaries the COBRA election notice following the loss of coverage due to termination of employment, reduction or loss of employment, death or Medicare entitlement. The period is reduced to 14 days in the case of those qualifying events identified above as to which beneficiaries must provide notice to the plan.
- Two new notice requirements are established in the regulations. If an employee or beneficiary claims that a qualifying event has occurred and the plan decides that the person is not entitled to continuation coverage, the plan must notify the person of this decision in writing within 14 days. As to employees and beneficiaries already on COBRA coverage, if coverage terminates for any reason prior to the end of the applicable 18, 29 or 36 month coverage period (for example, as a result of non-payment of premiums or qualification for other coverage), a notice of such termination must be provided “as soon as practicable.” This notice must also explain any other coverage rights that may be available at that time, such as conversion rights under the group health plan.

Required Action: For employers with group plans, the insurance company or third party administrator may provide updated COBRA general election notices that comply with the new regulations. However, employers must make sure that the notices relating to denial of COBRA coverage and early termination of continuation coverage are prepared and available for use. Both represent new procedural requirements under COBRA. Similarly, a notice procedure to be followed by employees and beneficiaries giving notice to their employers of certain qualifying events should be communicated to employees and beneficiaries by the effective date for the new regulations, or January 1, 2005 for calendar year plans.

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