

COBRA Regulation Changes Published May 26, 2004

The Department of Labor (DOL) finalized the proposed COBRA regulation changes effective May 26, 2004. These regulations will become effective with plan renewals after November 26, 2004. Calendar year plans must comply 1/1/05. The purpose of the following is to provide you with a summary of the changes. If you are a client of The Conestoga Group's COBRA Administration program, we have implemented all of these changes with an effective date of 1/1/05.

WHAT'S NEW:

A few new notices are now required when appropriate:

1. Notice of Unavailability of COBRA Coverage
2. Notice of Termination of COBRA Coverage
3. Employer Notice of Qualifying Event

Plan must establish procedures for employees or qualified beneficiaries to provide notice to the employer or COBRA Administrator for the following (the requirement is not new but the requirement for documented procedures is):

1. Qualifying Event due to divorce/legal separation or child ceasing to be covered.
2. Qualified beneficiary notice of second qualifying event.
3. Qualified beneficiary notice of disability as determined by Social Security Administration.

WHAT'S CHANGED:

Initial COBRA Notice (also called The General Notice) – This notice has been completely updated due to the categories of information below required by the DOL:

1. Notice must include Plan name and the name, address and telephone number of the party or parties from whom additional information about the plan and COBRA continuation coverage can be obtained.
2. General description of COBRA coverage under the plan.
3. Procedures for qualified beneficiary to provide notice of a qualifying event.
4. Procedures for qualified beneficiaries covered under COBRA to notify the administrator of a Social Security determination of disability and a description of the plan's procedures for providing such notice.
5. Importance of notifying the administrator of an address change.
6. A statement that this initial notice does not fully describe COBRA or other rights under the plan, and that more complete information is available from the plan administrator and in the Summary Plan Description (SPD).

COBRA Qualifying Event Notice (also called COBRA Election Notice) – This notice has been completely updated as well due to the categories of information below required by the DOL.

1. The name of the Plan and party administering COBRA.
2. Identification of the qualifying event.
3. The qualified beneficiaries and date coverage terminates.
4. A statement that each individual who is a qualified beneficiary with respect to the qualifying event has an independent right to elect COBRA coverage.
5. COBRA election procedures and deadline for electing coverage.
6. HIPAA and other consequences of failing to elect or waiving coverage.
7. A description of the COBRA coverage that will be made available under the plan, if elected, including the date on which such coverage will commence.
8. Length of coverage, explanation that discusses maximum period available and termination date of that period, explanation of events that might cause coverage to be terminated earlier than the end of the maximum coverage period.

9. A description of the circumstances under which the maximum period of COBRA coverage may be extended due to either a second qualifying event or a determination by Social Security Administration (SSA) that the qualified beneficiary is disabled and the length of such extension.
10. Qualified beneficiary's responsibility to provide notice of a second qualifying event or notice of SSA disability determination.
11. The COBRA premium the qualified beneficiary must pay.
12. Premium due dates, payment procedures and consequences of late payment or non-payment.
13. Need to keep administrator informed of address changes.
14. A statement that the notice does not fully describe COBRA coverage or other rights under the plan, and that more complete information regarding such rights is available in the plan's Summary Plan Description (SPD) or from the Plan Administrator.

ADDITIONAL INFORMATION

It is important to note a mass mailing of the updated Initial Notice should be mailed to all employees and spouse (if enrolled) early in 2005. This will be coordinated through The Conestoga Group if you are a client of their COBRA Third Party COBRA Administration program.

If your company does not have a Summary Plan Description for the company's group health plans, it is **extremely** important that one be drafted since your COBRA notices are required to make references to it. A separate Legislative Update will be sent shortly discussing SPD's and how The Conestoga Group can direct you in having one prepared.

THIRD PARTY COBRA ADMINISTRATION

If The Conestoga Group is contracted to be your Third Party COBRA Administrator you will be receiving more detailed information separately on how the changes affect our service. We will include copies of the updated Initial Notice and Qualifying Event Notice. You also will be required to sign an updated Service Agreement. Some of the "new" required changes we have always done as part of our COBRA Service and some of the changes are new for us as well. As required by the regulations we plan will begin using the new notices 1/1/05 unless your plan renews prior to 1/1/05 (12/1/04 for example).

NEED MORE INFORMATION?

If you are not one of The Conestoga Group's COBRA Clients and you are not sure if your company is required to offer COBRA, a quick test is to count the number of employees the company employed in 2004. If the employee count is 20 or more full or part time employees for at least 50% of 2004 you will most likely be required to offer COBRA in 2005. You must count all employees of all related employers. It is important to note that this Legislative Update does not discuss state continuation requirements. Some states such as New Jersey have "State Continuation" requirements for small employers similar to but not exactly like COBRA.

Questions about this Legislative Update should be directed to Fredonna Smith of The Conestoga Group at fredonna.smith@conestoga.biz or 610-889-9500, extension 103.

The Conestoga Group is an insurance, investment and employee benefits broker and consulting firm based in Frazer, PA. Conestoga specializes in providing financial products and services to small businesses and their owner/executives and other employees. Founder and President Brad Palmer is an Investment Advisory Representative of Commonwealth Financial Network-a registered investment advisor and member firm of the NASD/SIPC. Brad can be reached at 610-889-9500 extension 101 or at brad.palmer@conestoga.biz.

NOTICE

These legislative descriptions are our interpretations of information provided to us by various legal and other resources as of 11/16/04. It is possible the information was presented incorrectly or that we have misunderstood the presentation. The purpose of this communication is to provide you with basic summary information on the subject matter and assist you in determining whether or not you may need to seek further legal or other assistance. This communication should not be construed as legal, tax, investment, or other advice and does not take into consideration any specific factors that may be unique to the reader's situation.