



COBRA New York



Comparison of Federal and New York Continuation Laws

	FEDERAL (COBRA)	NEW YORK
Covered Employers and Health Plans	<p>Group health plans maintained by private-sector employers with 20 or more employees. Most group health plans maintained by governmental employers are required to offer COBRA. However, group health plans maintained by churches are exempt from COBRA.</p>	<p>Insured group health plans must provide continuation coverage to employees and their eligible dependents. State continuation coverage does not apply to self-funded plans, dental-only plans, vision-only plans or prescription-only plans.</p> <p>State continuation coverage does not apply to individuals who are eligible to continue coverage under COBRA for 36 months. Individuals who are eligible for fewer than 36 months of COBRA coverage may elect state continuation coverage at the end of their maximum COBRA period. The maximum amount of continuation coverage (federal and state) for these individuals is 36 months, measured from the date that the individual's COBRA coverage began.</p>
Qualified Beneficiaries	<p>An employee, spouse or dependent child covered by a group health plan on the day before a qualifying event. 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.</p>	<p>Employees and their eligible dependents who are not eligible for COBRA may qualify for state continuation coverage upon the occurrence of a qualifying event.</p> <p>Qualified beneficiaries who are entitled to federal COBRA for fewer than 36 months also qualify for state continuation coverage when they exhaust their COBRA coverage.</p>

<p>Qualifying Events</p>	<p>Events that trigger an obligation to offer COBRA coverage include:</p> <ul style="list-style-type: none"> • Termination of employment for reasons other than gross misconduct (all qualified beneficiaries); • Reduction in the number of hours of employment (all qualified beneficiaries); • Covered employee's becoming entitled to Medicare (spouse and dependent children); • Divorce or legal separation of the covered employee (spouse and dependent children); • Death of the covered employee (spouse and dependent children); and • Loss of dependent child status under the plan (dependent children). 	<p>An employee or insured member loses coverage because of a termination of employment (for any reason) or membership in the class (or classes) eligible for coverage under the policy. For eligible dependents, this includes a termination of eligibility due to:</p> <ul style="list-style-type: none"> • Covered employee's becoming entitled to Medicare; • Divorce or legal separation of the covered employee; • Death of the covered employee; or • Loss of dependent child status under the plan.
<p>Maximum Continuation Period</p>	<p>The maximum duration of COBRA coverage depends on the type of qualifying event, as follows:</p> <p>18 months - Employment termination or reduction in hours of work</p> <p>29 months - The Social Security Administration (SSA) determines the qualified beneficiary is disabled during the first 60 days of COBRA coverage. This 11-month extension applies to the qualified beneficiary with the disability and all of the qualified beneficiaries in the family.</p> <p>36 months - Divorce or legal separation, employee's death, entitlement to Medicare or loss of dependent child status</p> <p>36 months - After a qualifying event that is an employment termination or a reduction in hours of work, a second qualifying event occurs that is the death of the employee, the divorce or legal separation of the covered employee and spouse, Medicare entitlement (in certain circumstances)</p>	<p>The maximum duration of continuation coverage is 36 months after the date that benefits under the policy would otherwise have terminated.</p> <p>Individuals who are eligible under federal COBRA for 18 months can continue coverage under state continuation coverage for an additional 18 months. These individuals will have up to a total of 36 months of coverage when combining the COBRA and state continuation benefits.</p> <p>Individuals who are eligible under federal COBRA for 29 months (due to a disability extension) can continue coverage under state continuation for an additional seven months, for a total of up to 36 months.</p>

	or loss of dependent child status under the plan.	
Early Termination of Coverage	<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> <ul style="list-style-type: none"> • Premiums are not paid on a timely basis; • The employer ceases to maintain any group health plan; • 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 the beneficiary; or • After the COBRA election, a beneficiary becomes entitled to Medicare benefits. 	<p>Continuation coverage may end earlier than the 36-month maximum coverage period if:</p> <ul style="list-style-type: none"> • The plan is terminated and not replaced by the employer; • Premium payments are not made on time; • After electing continuation coverage, the qualified beneficiary becomes entitled to Medicare; or • After electing continuation coverage, the qualified beneficiary becomes covered under another group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of the beneficiary.
Notice Requirements	<p>Health plan administrators must provide an initial general notice when group health coverage begins. When a qualifying event occurs, health plan administrators must provide an election notice regarding rights to COBRA continuation benefits to each qualifying beneficiary who loses plan coverage in connection with the qualifying event.</p> <p>Qualified beneficiaries 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 would end, whichever is later.</p> <p>Additional COBRA notice requirements apply under federal law.</p>	<p>A notice of continuation coverage must be included in each certificate of coverage.</p> <p>Within 14 days of a qualifying event (or receiving notice of a qualifying event from an employee), the employer must notify qualified beneficiaries of their rights to continue coverage.</p> <p>Qualified beneficiaries must elect continuation of coverage in writing within 60 days following the date of coverage termination or, if later, the date the employer provided the notice of continuation coverage.</p>
Premium Rules	<p>The maximum amount charged to qualified beneficiaries cannot exceed 102 percent of the plan's total cost of coverage for similarly situated individuals. For qualified beneficiaries receiving the 11-month disability extension, the premium for those additional months may be increased to 150 percent of the plan's total cost of</p>	<p>The maximum amount charged to qualified beneficiaries cannot exceed 102 percent of the group rate for the benefits being continued under the group policy. The qualified beneficiary's first premium payment must be given to the employer within 60 days of the date benefits under the plan would otherwise terminate.</p>

	<p>coverage.</p> <p>Plans must provide at least 45 days after the election for making an initial premium payment. The plan sponsor may establish due dates for later payments, but it must provide a minimum 30-day grace period for each payment.</p>	
Applicable Statutes	<p>IRC § 4980B, ERISA §601 <i>et seq.</i>, 29 CFR §§ 2590.606-1 through 2590.606-4.</p>	<p>NY INS §§ 3221(m), 4305(e); 11 NYCRR 360.7</p>
Government Agency Contact	<p>Departments of Labor and Treasury (private sector plans) and Department of Health and Human Services (public sector plans). More information on COBRA coverage is available from the Department of Labor.</p>	<p>New York State Insurance Department</p>