

## Complex COBRA regulations require due diligence

Benefits professionals are well aware of the Consolidated Omnibus Budget Reconciliation Act (COBRA) and its due diligence requirements and complexities. However, if you're a small employer, COBRA compliance may be an overlapping task that's handled by you, an assistant or an officer with a full plate of duties. With the recent changes to COBRA regulations, it's even more important to make sure your organization is in compliance - because one small error can have costly consequences.

### What is COBRA?

COBRA provides health insurance coverage for qualified employees, and their eligible dependents, who have lost coverage due to a qualifying event such as termination, resignation, reduced hours, divorce, death or other loss of eligibility. An employee has a right to continue insurance coverage under the former employer's group health plan for up to 18 months. And the former employee must pay for the cost of this coverage. If the employee's spouse and dependents were covered during the person's employment, their coverage also is extended, at cost, to the former employee.

COBRA regulations generally apply to all group health plans, such as medical, dental and vision plans that are sponsored by private sector employers with twenty or more employees.

As an employer, your organization is responsible for ensuring that employees are properly notified of their COBRA rights and qualifying events. Reasonable procedures for electing to continue insurance coverage must be established and communicated to employees.



### Is your organization compliant?

COBRA regulations are complex. They are difficult to interpret and are constantly changing. As a result, many companies fall out of compliance with COBRA regulations, which can be a costly mistake. The IRS charges noncompliant employers an excise tax of \$100 per day, per qualified beneficiary - up to a maximum of \$255,000. ERISA penalty fines for noncompliance cost plan administrators an additional \$110 per day, per event. In addition to these fines, employers may be required to pay for medical claims not covered by insurance, as well as for litigation fees.

Many companies unknowingly make simple mistakes. Are you sure your organization is completely compliant with the most recent legislation? If brought into question, can you prove that your organization followed all required steps? Consider these questions:

*Were your COBRA policies and materials developed with the aid of an ERISA attorney?*

*Do you provide written notification of COBRA rights to each newly covered employee and each spouse?*

*Is your staff trained to answer questions from attorneys that challenge your position?*

*Are you sure that all COBRA notices, letters and forms are properly worded with the most current DOL and COBRA regulations?*

*If you were to refuse an untimely election or payment, could you prove that it was late?*

If you answered no to any of these questions, your organization could have a problem. Of course, compliance is very complex and there are many more aspects of COBRA regulations to consider.

### Is there an easier way to ensure compliance?

Yes! There are a number of COBRA service providers that can help minimize your risk by keeping detailed records and staying on top of ever changing regulations. A good services provider administers:

- Initial notification of COBRA rights and obligations
- COBRA qualifying event notices
- Participants questions and issues
- Monthly continuant billings, grace letters and collection of premiums
- Retention of proof on all critical transactions

You can call me with your general COBRA questions. I can also suggest a service provider based on your needs.

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