



COBRA

SOUTH CAROLINA

Comparison of Federal and South Carolina Continuation Laws

	FEDERAL (COBRA)	SOUTH CAROLINA
Covered Employers and Plan Coverage	<p>Group health plans maintained by private-sector employers with 20 or more employees, employee organizations, or state or local governments.</p> <p>Coverage must be identical to that available to similarly situated beneficiaries who are not receiving COBRA coverage under the plan (generally, the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage).</p>	<p>Each group health plan with 2-19 employees, that provides hospital, surgical or major medical benefits (not including specific diseases or accidental injuries only) on an expense incurred basis shall provide continuation coverage to the employee or member, spouse and dependent children.</p>
Qualified Beneficiaries (Employee / Dependents)	<p>An employee, spouse or dependent child covered by a group health plan on the day before a qualifying event.</p> <p>In certain cases, a retired employee, the retired employee's spouse and the retired employee's dependent children may be qualified beneficiaries.</p> <p>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>Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.</p>	<p>Employee/member who has been insured continuously under group policy for at least six months and whose insurance has been terminated for any reason other than nonpayment of required contribution.</p> <p>Spouse and dependents are also covered per Department of Insurance interpretation. See Eligibility section for more information.</p>
Continuation Period	<p>18 months - COBRA beneficiaries generally are eligible for group coverage during a maximum of 18 months for qualifying events due to employment termination or reduction of hours of work.</p> <p>29 months - Disability can extend the 18-month period of continuation coverage for a qualifying event that is a termination of employment or reduction of hours. If certain requirements are met, the entire family qualifies for an additional 11 months of COBRA continuation coverage. Plans can charge 150% of the premium cost for the extended period of coverage.</p>	<p>Fractional policy month remaining at termination plus 6 additional policy months.</p>

	<p>36 months - Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.</p> <p>36 months - Under COBRA, participants, covered spouses and dependent children may continue their plan coverage when they would otherwise lose coverage due to divorce (or legal separation) for a maximum of 36 months.</p>	
Qualifying Events	<p>Qualifying Events for Employees:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of employment for reasons other than gross misconduct (18 months) • Reduction in the number of hours of employment (18 months) <p>Qualifying Events for Spouses:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months) • Reduction in the hours worked by the covered employee (18 months) • Covered employee's becoming entitled to Medicare (36 months) • Divorce or legal separation of the covered employee (36 months) • Death of the covered employee (36 months) <p>Qualifying Events for Dependent Children:</p> <ul style="list-style-type: none"> • Loss of dependent child status under the plan rules (36 months) • Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months) • Reduction in the hours worked by the covered employee (18 months) • Covered employee's becoming entitled to Medicare (36 months) • Divorce or legal separation of the covered employee (36 months) • Death of the covered employee (36 months) 	Group insurance terminated for any reason other than nonpayment of required contribution.
Eligibility	To be eligible for COBRA coverage, must have been enrolled in employer's health plan when employed and health plan must continue to be in	Employee/member who has been insured continuously under group policy for at least six months and

	<p>effect for active employees. COBRA continuation coverage is available upon the occurrence of a qualifying event that would, except for the COBRA continuation coverage, cause an individual to lose his or her health care coverage.</p>	<p>whose insurance has been terminated for any reason other than nonpayment of required contribution.</p> <p>South Carolina Department of Insurance has interpreted "employee or member" to include those classes of individuals who were entitled to continuation and conversion under the statute as previously written. Therefore, the continuation privilege extends to:</p> <ul style="list-style-type: none"> • Employees and members who lose coverage under the group policy; • Dependents who lose coverage upon reaching the limiting age; • Spouses and children who lose coverage by death of the employee or member; and • Spouses and children who lose coverage as the result of ceasing to be qualified as a family member (divorce). <p>If there are instances in which coverage is lost by an individual who does not fit in any of the categories listed above, the Department urges that continuation of coverage be offered and that "employee or member" be construed broadly to cover any individual who was covered under the group policy. Individuals eligible for other group coverage with similar benefits or those eligible for Medicare are not entitled to continuation of coverage.</p> <p>Does not apply to an employee/member who is entitled to period of federal law continuation coverage which is greater than state continuation period.</p>
<p>Notice Requirements</p>	<p>Health plan administrators must provide an initial general notice when group health coverage begins.</p>	<p>A notification of the privilege to continue coverage after termination must be included in</p>

	<p>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>Employers must notify their plan administrators within 30 days after an employee's termination or after a reduction in hours that causes an employee to lose health benefits.</p> <p>The plan administrator must provide notice to individual employees of their right to elect COBRA coverage (election notice) within 14 days after the administrator has received notice from the employer.</p> <p>Employee 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 ceased, whichever is later. Otherwise, employee will lose all rights to COBRA benefits.</p> <p>Spouses and dependent children covered under such health plan have independent rights to elect COBRA coverage upon employee's termination or reduction in hours.</p>	<p>each certificate of coverage.</p> <p>Employer shall also clearly and meaningfully advise employee upon termination of the right to continue insurance. Employer shall advise employee regarding amount of premium and that payment is due before policy month begins.</p>
<p>Termination of Coverage</p>	<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. However, if other group health coverage is obtained prior to the COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election. • After the COBRA election, a beneficiary becomes entitled to Medicare benefits. However, if Medicare is obtained prior to COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election. 	<p>Employee is not entitled to continue coverage under the group if:</p> <ul style="list-style-type: none"> • Eligible for other group coverage which provides similar benefits; or • Eligible for Medicare benefits.

Conversion Rights	Some plans allow participants and beneficiaries to convert group health coverage to an individual policy. If this option is generally available from the plan, a qualified beneficiary who pays for COBRA coverage must be given the option of converting to an individual policy at the end of the COBRA continuation coverage period. The option must be given to enroll in a conversion health plan within 180 days before COBRA coverage ends. The premium for a conversion policy may be more expensive than the premium of a group plan, and the conversion policy may provide a lower level of coverage. The conversion option, however, is not available if the beneficiary ends COBRA coverage before reaching the end of the maximum period of COBRA coverage.	Health insurance policies which terminate coverage of a spouse upon divorce must contain a provision which entitles a divorced spouse to an individual policy, without evidence of insurability, upon application to the insurer within 60 days of the divorce and upon payment of the premium. Any probationary or waiting periods set forth in the policy are considered as being met to the extent coverage was in force under the prior policy.
Applicable Statutes	IRC § 4980B, ERISA §601 <i>et seq.</i>	S.C. Code Ann. §§ 38-71-170, 38-71-770
Government Agency Contact	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 at: www.dol.gov/dol/topic/health-plans/cobra.htm .	South Carolina Dept. of Insurance (803) 737-6180

This Chart is provided to you for general informational purposes only. It broadly summarizes state and federal statutes, but does not include references to other legal resources (for example, supporting regulations, or formal or informal opinions of state offices of commissioners of insurance) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.

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