

Office of Employee
Benefits

Administrative
Manual



CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA)

250

INITIAL EFFECTIVE DATE: SEPTEMBER 1, 2005

LATEST REVISION DATE: SEPTEMBER 2020

PURPOSE: To provide guidance in determining the eligibility of Employees and their Dependents for continuation of coverage under COBRA

SCOPE: Employees and Dependents of The University of Texas System

STATUTORY AND ADMINISTRATIVE REFERENCES:

Texas Insurance Code, §1601;
Texas Government Code, §667.005;
Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, as amended

1.0 BACKGROUND

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 272, as amended, was passed by the United States Congress to require employers to offer their employees and covered dependents the option to extend certain group coverages when specific qualifying events occur. These continuation rights are known as “COBRA” rights.

A type of COBRA, 42 U.S.C. 300bb-1 through 300bb-8 (title XXII of the Public Health Service Act, sections 2201 through 2208), applies to government plans including The University of Texas System (System) Uniform Group Insurance Program (Program). System Employees, Retired Employees, and their covered Dependents are eligible for continuation of health, dental and/or vision coverage as a government plan COBRA participant, if their Program coverage ends (or is reduced) and certain conditions are met, as described in this policy. Additionally, Employees are eligible to elect government plan COBRA for UT FLEX in order to gain access to unused balances after termination of employment.

COBRA participants are entitled to the same health, dental and vision benefits as System active Employees, Retired Employees, and Dependents.

Continuation of coverage for medical, dental and vision can remain in effect for a maximum period of 18, 29 or 36 months from the date of the initial qualifying event, depending upon the type of qualifying event. An eligible Health Care Reimbursement Account can be continued through the end of the plan year.

COBRA participants are not eligible to continue life, accidental death and dismemberment, disability, or long term care coverage under the Program. However, if they were previously enrolled in this coverage on their last day of Program coverage, they may be eligible to opt to convert one or more of these plans to continue individual coverage.

Note: For purposes of this Policy 250, certain Postdoctoral Fellows and Qualifying Graduate Students, as defined in Policy 211 of this manual, have the same COBRA rights as Employees.

2.0 INITIAL NOTIFICATION REQUIREMENTS

System institutions must notify all benefits-eligible Employees and their covered Dependents of their right to continuation of group health, dental and/or vision coverage:

- at the time of initial enrollment (unless coverage is waived); and
- at the time of a qualifying event.

The required notification is included in the Employee Group Benefits Handbook that each institution is required to provide to all new Employees during the new hire orientation process. In addition, notification of an Employee's and/or Dependent's right to COBRA continuation coverage is included in the Program plan booklets.

A description of the process for an Employee and/or Dependent to continue coverage as a COBRA participant following a qualifying event is available in Section 7.0 of this policy. Additionally, it is recommended that the notification letter be given to all participants who have a change in program eligibility.

3.0 ELIGIBILITY FOR COBRA COVERAGE

Employees, Retired Employees and their Dependents who are covered by a Program plan on the date of a qualifying event are determined to be qualified beneficiaries and are eligible to continue Program coverage as a COBRA participant for a specified period of time. For a description of the qualifying events and the maximum period of COBRA coverage, see Section 4.0 of this policy. For a description of a qualified beneficiary, see Section 5.0.

The Employee and/or each covered Dependent is eligible to make an independent election for continuing coverage. More details will be provided in subsequent sections of this policy.

Example 1: An Employee with Subscriber and Family health coverage terminates employment but cannot afford the COBRA premium for that level of coverage. One of the covered dependent children has serious medical problems. This Employee may continue health coverage on that child only.

Covered Dependents of Retired Employees who lose Program coverage due to a qualifying event are determined to be qualified beneficiaries and are eligible to continue Program coverage as a COBRA participant.

Important: An Employee, Retired Employee or Dependent who is covered under another group health plan or who is entitled to Medicare is eligible to elect and retain COBRA coverage for the maximum period of coverage if the other group health plan coverage or Medicare entitlement began on or before the date on which the individual elects COBRA coverage.

4.0 QUALIFYING EVENTS FOR COBRA COVERAGE

An eligible Health Care Reimbursement Account can be continued through the end of the plan year. The length of COBRA coverage for medical, dental and vision may extend up to a maximum of 18, 29 or 36 months, upon the occurrence of a specific qualifying event including:

4.1 18 Month Maximum Period

A maximum period of 18 months of continuing coverage is available to Employees who experience one of the following qualifying events that will result in loss of eligibility for Program coverage:

- Termination of employment (unless for gross misconduct);
- Reduction in work hours so the Employee no longer meets the definition of an eligible employee for the Program, as defined in Policy 210;
- Reaching maximum period in a leave of absence without pay status, resulting in loss of eligibility for Program coverage; or
- Retirement of an Employee who does not meet the definition of a qualified Retired Employee and, therefore, is not eligible for Program coverage as a Retired Employee, as defined in Policy 220.

4.2 29 Month Maximum Period

A covered Employee, who is determined by the Social Security Administration to have been disabled before (or during) the first 60 days of continuation coverage as a COBRA participant, may be eligible for up to an additional 11 months of group coverage, for a total of 29 months of continuation coverage or until the individual enrolls in Medicare coverage, whichever occurs first. A copy of the Social Security Administration's award letter must be provided to the COBRA administrator by the participant before the end of the original 18-month continuation period to be eligible to receive the additional 11 months of coverage.

4.3 36 Month Maximum Period

A maximum period of 36 months of continuing coverage is available for Dependents of covered Employees and Retired Employees when one of the following qualifying events results in loss of eligibility for Program coverage:

- Divorce or legal separation of the Employee or Retired Employee;
- Dependent child reaches age 26 unless medically incapacitated (see Policy 230, section 3.4 for details);
- Death of the Employee or Retired Employee (see §4.3.1 below); or
- Employee becomes entitled to Medicare (leaving the Dependents without group health coverage)(see §4.3.2 below).

Most qualifying events affecting Dependents allow up to 36 months of COBRA continuing coverage. However, Dependents of Employees who lose Program coverage

due to one of the qualifying events listed in Section 4.1 will be limited to 18 months of continuing coverage, unless there is a subsequent qualifying event that allows an additional amount of time as a COBRA participant, as described in Section 4.4.

Example 2: If an Employee has a Dependent covered on the date of the qualifying event and the qualifying event is due to the Employee's termination of employment, the Dependent is eligible for only 18 months of COBRA coverage, even if the Employee wishes to continue coverage only for the Dependent.

4.3.1 If an Employee becomes entitled to Medicare benefits (either Part A or Part B) before experiencing a qualifying event that is a termination of employment or a reduction of employment hours, the period of coverage for the Employee's spouse and dependent children ends with the later of the 36-month period that begins on the date the covered Employee became entitled to Medicare, or the 18- or 29-month period that begins on the date of the covered Employee's termination of employment or reduction of employment hours.

Note: The Employee's Medicare entitlement is not a qualifying event because it does not result in loss of coverage for the Employee's dependents; thus, the 36-month coverage period would be part regular plan coverage and part continuation coverage.

4.4 Combination of Qualifying Events

A Dependent with continuing coverage due to an 18-month qualifying event (Section 4.1) who experiences a subsequent 36-month qualifying event (Section 4.3) may extend COBRA coverage up to a total period of 36 months. The number of months of continuation coverage due to the initial qualifying event is counted toward the 36 month period. The qualified beneficiary must notify the appropriate plan administrator within 60 days of the second qualifying event.

Example 3: A dependent child is eligible to continue coverage for 18 months as a Dependent of an Employee who terminates employment. After 12 months, the child loses eligibility for coverage due to age. The child may elect to continue coverage independently from the former Employee for 24 additional months, a total period of 36 months as a COBRA participant.

5.0 QUALIFIED BENEFICIARIES

5.1 Definition of Qualified Beneficiary

Any System Employee or Retired Employee or a spouse or dependent child who is covered under a Program health, dental, and/or vision plan administered by the System on the day prior to a qualifying event is considered to be a qualified beneficiary for System COBRA purposes.

5.2 Nonqualified Beneficiary

5.2.1 Existing Dependent Added After Initial Election Period

A spouse or dependent child of a covered Employee or Retired Employee who does not elect COBRA coverage (either separately or as a Dependent of the Employee or Retired Employee) during the initial election period may be added

to the Employee's or Retired Employee's coverage after the initial election period as a Dependent of the Employee or Retired Employee. However, such an individual would no longer be a qualified beneficiary and would not be eligible for COBRA coverage after the initial 18 months.

5.2.2 Dependent of Qualified Beneficiary Added

Spouses and eligible dependent children of qualified beneficiaries may be added under the same rules applicable to dependents of active Employees. These spouses and dependent children are not qualified beneficiaries.

5.2.3 New Spouse of Qualified Dependent Added

A Dependent child who becomes ineligible for participation in the Program due to marriage may elect COBRA coverage. The Dependent's new spouse is eligible to be added to COBRA coverage within 31 days of marriage. However, the new spouse is not a qualified beneficiary.

5.3 Distinction Between Qualified and Nonqualified Beneficiaries

Only qualified beneficiaries are eligible to retain COBRA coverage following the loss of coverage by the participant whose former employment rendered the Dependent eligible for COBRA coverage.

5.3.1 Employee Chooses COBRA for Covered Dependents

The spouse or child of an Employee who terminates employment and continues Subscriber and Family coverage as a COBRA participant (spouse and children were covered on the plan before the qualifying event) becomes a qualified beneficiary and entitled to 18 months of COBRA coverage if the spouse and/or child were covered by the plan before the termination of the Employee's employment.

In the event of the former employee's subsequent death or divorce, the spouse and children may retain coverage for up to 36 months from the date of the Employee's employment termination.

5.3.2 Employee Does Not Choose COBRA for Dependents

An Employee who terminates employment and elects Subscriber Only COBRA coverage and then opts at a later date to add a spouse and/or eligible dependent may add the spouse and/or dependent only as nonqualified beneficiaries. Upon the COBRA participant's subsequent death, the spouse's and dependent's coverage will end without additional continuing coverage. If the COBRA participant divorces the spouse, the spouse's coverage will end without additional continuing coverage.

5.3.3 Employee Adds Dependents While on COBRA

An Employee with Subscriber Only coverage who terminates employment, elects COBRA coverage, and subsequently marries during the 18-month continuation of coverage period may add the new spouse and any eligible dependent stepchildren as nonqualified beneficiaries. Upon the COBRA participant's death or divorce from the spouse, coverage for the spouse and any stepchildren will end without additional continuing coverage.

Children born to or placed for adoption with a COBRA participant are considered qualified beneficiaries. However, they can retain coverage only for a period not to exceed the Employee's original entitlement.

Example 4: An Employee terminates employment, elects COBRA coverage, subsequently adds a newly eligible newborn dependent child, and then dies after being on COBRA coverage for 6 months. The newborn child is eligible to continue as a COBRA participant for an additional 12 months.

6.0 ELIGIBLE BENEFITS

Employees and Dependents who meet the criteria for continuation of coverage in the Program as a COBRA participant are eligible for the following benefits, if the coverage was in effect on the date of the qualifying event, as described in Section 3.0. See Section 9.0 of this policy for a description of the COBRA participant's responsibility for payment of premiums for Program coverages.

6.1 Health

A COBRA participant may be enrolled in the UT SELECT health plan if the participant was enrolled in the plan as an Employee or non-COBRA dependent, and is subject to the same enrollment options and restrictions on changes in the medical plan as an active Employee.

6.2 Dental and Vision

A COBRA participant may be enrolled in an eligible dental plan and vision plan if the participant was enrolled in the plan as an Employee or non-COBRA dependent and is subject to the same enrollment options and restrictions on changes in dental and vision plans as an active Employee.

6.3 Life and AD&D

A COBRA participant is not eligible for basic life, voluntary term life, or accidental death and dismemberment insurance coverage. However, an Employee enrolled in one of these coverages on the date of the qualifying event may be eligible to opt for the conversion feature provided within the plan design of each of these plans in which the Employee was enrolled by notifying the carrier providing the insurance within 31 days of the qualifying event. Payments will be made directly to the carrier providing the insurance.

6.4 Disability

A COBRA participant is not eligible to enroll in disability insurance coverage. However, an active Employee enrolled in long term disability (LTD) coverage who becomes disabled and then terminates employment is eligible to continue Program health coverage as a COBRA participant as long as the Employee is not eligible for disability retirement benefits.

6.5 UT FLEX

The Dependent Day Care Reimbursement Account (DCRA) is not eligible for continuation under COBRA. The Health Care Reimbursement Account (HCRA) may be eligible for continuation under certain circumstances.

An Employee who is enrolled in an HCRA upon termination of employment and elects COBRA coverage, may have the option to continue to contribute to the account through the end of the current plan year. In order to qualify for continuation, the available balance in an HCRA must be equal to or greater than the total of the remaining monthly contributions (including the 2% COBRA administrative fee) that would be required to continue the account through the end of the plan year.

Example 5: An Employee with an HCRA annual election amount of \$1,200 terminates employment during the month of March after having submitted \$650 in claims leaving a remaining HCRA balance of \$550. The required monthly contributions for continuation of the account through the end of the plan year under COBRA would total \$510 (five months x \$100 per month x 102%). This account is eligible to be continued because the \$550 remaining balance is higher than the \$510 in contributions that would be required for the remainder of the plan year.

Example 6: An Employee with an HCRA annual election amount of \$1,200 terminates employment during the month of March after having submitted \$700 in claims leaving a remaining HCRA balance of \$500. The required monthly contributions for continuation of the account through the end of the plan year under COBRA would total \$510 (five months x \$100 per month x 102%). This account is not eligible to be continued because the remaining balance of \$500 is less than the \$510 in contributions that would be required for the remainder of the plan year.

An individual who elects to continue to contribute to a UT FLEX HCRA account may be reimbursed for eligible claims incurred after termination up through the end of the plan year provided monthly contributions are continued throughout that time. An individual who ceases to contribute upon termination of employment or prior to the end of the plan year for a continuation of the account can be reimbursed only for eligible expenses incurred through the end of the last month for which a contribution was paid.

7.0 COBRA ENROLLMENT PROCESS:

7.1 System Institution Responsibilities

7.1.1 Continuation of Coverage Notification and COBRA Application Forms

The institution must provide the “Continuation of Coverage Notification” and the COBRA application forms (U. T. medical and/or dental and vision forms) to the Employee or qualified beneficiary within 14 days of:

- termination of Program coverage,
- reduction in hours, or
- death of the Employee or Retired Employee.

You may either provide this information directly to the Employee or mail to the last known address of the Employee or Dependent. Copies of these forms are attached to this policy.

7.1.2 Employees on LOA and FMLA

An Employee who continues coverage while on leave of absence without pay (LOA) status and subsequently terminates employment will be permitted to elect COBRA coverage for a period of up to 18 months following the end of the month of termination.

Example 7: An Employee goes on LOA beginning April 1. She makes her premium payments and remains on LOA until August 15 when she terminates employment. Her Program coverage as an Employee will terminate at the end of August. She is eligible to continue program coverage as a COBRA participant beginning September 1 for the following 18 months as long as she makes timely payment.

An Employee who declines or cancels coverage or fails to pay premiums while on LOA cannot extend COBRA rights.

Example 8: The Employee in *Example 5* goes on LOA on April 1. She does not request for her premium payments to be held in abeyance at the beginning of LOA. She makes her April payment but fails to make her May payment; therefore, her Program coverage is cancelled effective April 30. When this Employee terminates employment on August 15, she is not eligible for COBRA coverage since she was not enrolled in Program coverage on the date of termination of employment.

If the Employee returns to work after coverage was cancelled while on LOA, coverage may be reinstated if the Employee meets all enrollment and EOI requirements within 31 days of the Employee's return to employment. See Policy 140, Section 3.4 for more information.

Example 9: The Employee in *Example 5* goes on LOA on April 1. She does not request for her premium payments to be held in abeyance at the beginning of LOA. She makes her April medical payment but fails to make her May payment; therefore, her Program coverage is cancelled effective April 30. This Employee returns to active employment on August 15. She may reinstate all Program coverages that were in effect on April 30; however, EOI will be required for ~~medical~~, life and disability coverage.

COBRA coverage for an Employee on leave under the Family and Medical Leave Act (FMLA) will begin following the end of FMLA.

Example 10: An Employee goes on FMLA beginning April 1. While on FMLA, she continues to receive Premium Sharing for medical coverage. She uses her full 12 weeks of FMLA and terminates employment at the end of June. She is eligible for 18 months of COBRA coverage beginning July 1 as long as she makes timely payment.

7.1.3 Disability Retirees

Retirement is not considered an event triggering continuation of COBRA coverage. However, if a Retired Employee is disabled and has less than the required years of service, the Retired Employee is eligible for a number of months of insurance as a Retired Employee equal to the number of months enrolled as an active Employee. A disabled Retired Employee who exhausts this coverage is then eligible for up to 18 months of COBRA coverage.

7.1.4 Employee Not Notified

Employees and Dependents should receive a Notice of Eligibility for COBRA within 14 days of the qualifying event listed in Section 7.1.1. If the institution discovers that it has failed to make this notification, the Notice plus a COBRA application form should be mailed immediately to the individual's last known address. The individual will then have 60 days from this later notification date to elect COBRA coverage.

7.2 Employee/Dependent Responsibilities

An individual who is eligible for COBRA coverage must notify the employing institution of a qualifying event within 60 days of: (1) the date of the event; (2) the date of the loss of coverage; or (3) the date on which the employee/beneficiary is informed of the responsibility to notify the plan and how to do so. The institution should then send the COBRA election information and application form to the individual's last known address within 14 days from the date of notification from the individual.

7.2.1 Time Limit to Elect COBRA

An individual must elect COBRA coverage by completing and returning the COBRA application forms to the carrier offering the COBRA coverage within 60 days of the later of:

- date of loss of Program coverage (last day of the month in which the qualifying event occurred); or
- date of formal notice from the U.T. institution.

7.2.2 Time Limit to Pay Initial Premium

An individual who elects COBRA coverage must pay the full initial premium within 45 days from the application date. Coverage does not take effect until the full premium is received. Subsequent payments are due by the due date on the billing statement from the carrier. Failure to pay premium will result in cancellation of the coverage. To avoid cancellation, individuals should be encouraged to include the initial premium with their application for COBRA coverage.

7.3 UT Benefits Billing and Carrier Responsibilities

7.3.1 UT Benefits Billing

Upon receipt of the COBRA application form, UT Benefits Billing shall:

- Generate a billing statement for the COBRA premium payment and mail to the applicant;
- Enter the enrollment into the eligibility system;
- Send written notice to the participant that:
 - UT System provides a one-time 10-day grace period for premium payment that is not received by the carrier within 30 days of the due date; and
 - if premium payment is not received by the end of the grace period, the individual's coverage will be terminated retroactive to the last day of the month that payment was made.

Important: UT Benefits Billing will not transmit coverage to carriers until full payment of all premium owed has been received from the participant.

7.3.2 Carriers of Coverage with a Conversion Option

Upon receipt of the conversion form, the carrier shall enroll the participant as an individual enrollee, determine the appropriate amount of coverage, and establish a direct billing process.

The effective date will be the first of the month following the month in which the loss of Program benefits occurred.

8.0 EFFECTIVE DATE OF COBRA COVERAGE

Group coverage ordinarily ends at midnight on the last day of the month in which an Employee or covered individual loses eligibility. COBRA coverage for an individual who loses eligibility due to a COBRA qualifying event begins the first day of the following month.

COBRA participants must ensure that there is no break in coverage between the end of coverage as an Employee or Dependent and the beginning of coverage as a COBRA participant. A COBRA participant must pay all premiums due retroactive to the effective date of the beginning of COBRA coverage to avoid cancellation due to a break in coverage.

Example 11: An Employee terminates employment on October 15 and is provided COBRA information and forms during the exit interview. The Employee's Program coverage ends at the end of the month on October 31; therefore, the Employee has until December 31 to elect COBRA coverage. The Employee signs the COBRA form and mails it on December 30. In order for the Employee to have continuing coverage effective November 1, payment must be received for both November and December.

9.0 COBRA PREMIUMS

9.1 COBRA Participants Eligible for 18 or 36 Months

The premium amount due from COBRA participants who qualify for 18 or 36 months of continuing coverage for medical, dental, and vision coverage is the applicable premium* + a 2% administrative fee

* Total premium cost for active employees for Subscriber Only, Subscriber and Spouse, Subscriber and Children, or Subscriber and Family level of coverage as applicable.

9.2 COBRA Participants Eligible for 29 Months

For COBRA participants who are determined by the Social Security Administration to be disabled, the premium amount due is the same as calculated in section 9.1 for the first 18 months. However, for the additional 11 months, the applicable premium* + a 50% administrative fee

* Total premium cost for active employees for Subscriber Only, Subscriber and Spouse, Subscriber and Children, or Subscriber and Family level of coverage as applicable.

9.3 Continuation of Health Care Reimbursement Account

If an individual ends active UT employment and continues coverage as a COBRA participant, a Health Care Reimbursement Account may be continued through the end of the plan year in which active employment status ended, as long as COBRA premiums are paid.

COBRA participants are not eligible to continue participation in a Dependent Day Care Reimbursement Account.

9.4 Premium Due Date

COBRA premium payments are due on the first of each month of coverage.

Important: If premium for Medical coverage is not received on or before the first of the month, coverage will be suspended until payment is received.

If the premium is not received within 30 days of the due date, the participant will receive a written termination notice allowing a one-time 10-day grace period for payment. If payment is not received by the end of the grace period, coverage will be cancelled retroactive to the last day of the month in which full payment had been received.

9.5 Participant Responsible for Payment of Entire Premium

COBRA participants are responsible for payment of the entire amount of the premium, including a federally approved administrative fee. There is no Premium Sharing for the COBRA premium.

10.0 TERMINATION OF COBRA COVERAGE

A participant's COBRA coverage terminates upon the occurrence of any of the following:

- The participant's maximum eligibility period expires.
- The participant notifies the vendor providing the COBRA coverage of the participant's termination of coverage.
- The participant fails to pay the entire premium within the required time period for payment.
- The participant obtains coverage with the Program or another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of such beneficiary coverage under the Program or other comparable coverage under any other group health plan which does not contain an applicable exclusion for a preexisting condition of the participant.

- The participant becomes eligible for coverage under Medicare after the date of COBRA election. (Affects UT SELECT Medical COBRA coverage only.)
- The System terminates the Program.

Important: Once COBRA coverage is terminated or dropped, it cannot be reinstated. The participant may contact the insurer providing the coverage to determine if conversion to an individual policy is available.