

Department of Labor Issues Final COBRA Regulations

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The Department of Labor issued final rules setting minimum standards for the timing and content under

the COBRA provisions and establishing standards for administering the notice process.

The regulations are effective July 26, 2004, but will apply to notice obligations arising under COBRA on the plan year which begin after November 26, 2004.

The final regulations address four separate areas:

(1) General Notice:

- An initial notice must be provided to each covered employee and the employee's spouse not later than 90 days from the date on which the covered employee or spouse becomes covered under the plan. Some of the general information may be contained in the plan's SPD.
- The notice must contain basic information about COBRA and the rights and responsibilities, *including the name of the plan and a plan contact (including name, address and phone number) for further information.*
- A single notice may be delivered to a covered employee and his/her spouse at their joint address, provided that the plan's latest information indicates that both reside at that address, and provided that both coverages begin at the same time. Handing a copy to the covered employee at work is effective notice to the employee, but not to the covered spouse.

(2) Employer's Notices of Qualifying Event:

- The employer is required to provide notice to the plan administrator if the qualifying event is a

termination, reduction in hours, death, eligibility for Medicare or the employer's commencement of a proceeding in bankruptcy.

- The employer must notify the plan administrator within 30 days after the qualifying event.
- The employer must provide the plan administrator with sufficient information for the administrator to determine the identity of the plan, the covered employee, the qualifying event and the date of the qualifying event.


(3) Qualified Beneficiaries' Notices:

- Employee must provide employer with notice of a divorce, legal separation, child ceasing to be a dependent under the plan; occurrence of a 2nd qualifying event; determination of disability by SSA, and a determination by SSA that a qualified beneficiary is no longer disabled.
- Plans must establish reasonable procedures for an employee furnishing these notices and set standards for what will be considered reasonable.

- The plan must allow an employee or qualified beneficiary at least 60 days to provide notice of a qualifying event.
 - The plan may require a covered beneficiary to provide missing information if the notice is incomplete.
- (4) Plan Administrator's Notice Obligations:
- Plan administrator must provide notice to each qualified beneficiary within 14 days after being informed of the qualifying event.
 - If the employer is also the administrator of the plan, the election notice must be furnished not later than 44 days after the qualifying event, *or if the plan provides that COBRA coverage starts on the date of loss of coverage, the date the qualified beneficiary loses coverage under the plan.*
 - The election notice must contain certain HIPAA-related information and plan contact information.

• The election notice *need not* contain information concerning alternative coverage and conversion rights. (Be aware, however, that Wisconsin law requires the notice to contain conversion information).

• The plan administrator must provide *written* notice within 14 days if he/she receives notice of a qualifying event from an individual who is *not* eligible to receive continuation coverage under the plan.

• The plan administrator must also provide written notification to all qualified beneficiaries if continuation coverage will terminate earlier than the end of the maximum period of continuation coverage (e.g., if the employer terminates coverage altogether). 



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