



# Illinois Insurance Facts

## Health Insurance Continuation Rights -- COBRA

### Illinois Department of Insurance

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Note: This information was developed to provide consumers with general information and guidance about insurance coverages and laws. It is not intended to provide a formal, definitive description or interpretation of Department policy. For specific Department policy on any issue, regulated entities (insurance industry) and interested parties should contact the Department.

With the high costs of medical care, maintaining health coverage is considered important to everyone. Illinois law does not require employers to provide health benefits for their employees or their families. However, if you are covered by an employer's health benefits, the loss of coverage can be devastating.

State and federal laws give certain employees, spouses and dependent children the right to continue employer-sponsored health benefits at group rates if they lose their benefits because of specific "qualifying events." The type of policy, your employer and qualifying event will determine who is qualified for continuing coverage and for how long.

This fact sheet provides **specific information** on the **federal continuation requirements** under **COBRA**, the Consolidated Omnibus Budget Reconciliation Act, and compares its basic provisions to three other continuation laws: the [Illinois Continuation Law](#), the [Illinois Spousal Continuation Law](#) and the [Illinois Dependent Child Continuation Law](#). The chart at the bottom of this fact sheet provides a comparison of the laws pertaining to continuation of health benefits.

Under all four laws:

- The employer or plan administrator must notify you of your right to continue your health benefits when certain **qualifying events** have occurred. If both the state and federal laws apply to your situation, the employer or plan administrator must offer you both options. You must choose one or the other option.

**NOTE:** In some cases, the spouse, former spouse, dependent child or guardian must notify the employer and/or insurer that a **qualifying event** has occurred, such as divorce from or death of the covered employee or attainment of the limiting age by the dependent child. If you don't give proper notification, your continuation rights may be lost.

- Once you are offered continuation, you must elect to continue coverage within a certain time period, called the **election period**. If you don't inform the employer you want to continue coverage before the election period expires, you may lose that right. If

you have the option of either the state or federal continuations, once you make your choice, you can't change your decision if the **election period** has expired.

- Coverage will continue for the maximum amount of time required by law. However, coverage can end earlier in some cases, such as when the beneficiary becomes eligible for Medicare, if the employer no longer offers any group health insurance benefits for employees or if you secure insurance through other means.
- You must pay the **entire premium** for the coverage, including the part you used to pay as well as the part the employer paid before the qualifying event. In addition, you may also be required to pay an administrative fee under certain circumstances for COBRA and Spousal Continuation.

Your group insurance certificate, evidence of coverage or benefit plan summary booklet explains your options and responsibilities in detail. You should read the information now. Don't wait until you need your continuation rights.

## What Is COBRA?

COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) is a federal law, enforced by the U.S. Department of Labor, Employee Benefits Security Administration, which provides continuation of **group health coverage** that otherwise might be terminated. The law ( <http://www.gpo.gov/fdsys/pkg/FR-1999-02-03/pdf/99-1520.pdf> ) contains provisions giving certain former employees, retirees, spouses and dependent children the right to temporary continuation of health coverage at group rates.

## Which Plans Are Subject To COBRA?

COBRA applies to group health plans maintained by employers who had 20 or more employees on more than 50% of the business days in the prior calendar year, and plans sponsored by state and local governments. The following types of group health plans are subject to COBRA:

- Insured and self-insured employer group health plans;
- HMOs;
- Employee assistance plans that provide benefits beyond referral services such as counseling sessions;
- Dental plans;
- Vision plans;
- Retiree health plans;
- Health flexible spending accounts;
- Employer discount programs maintained by health care clinics where the program is utilized exclusively by employees with health or medical needs;

- Employer reimbursed health insurance policies purchased to bridge coverage under the employer's group health plan (certain restrictions apply).

**COBRA does not apply to:**

- Small employer plans (under 20 employees);
- Certain church and church-related plans;
- Plans sponsored by the federal government (e.g. federal employee or military personnel plans);
- Disability income plans;
- Life insurance and accidental death and dismemberment plans;
- Long term care coverage;
- Amounts contributed by an employer to a Medical Savings Account.

**Who Is Eligible For COBRA Continuation Coverage?**

A **qualified beneficiary** under COBRA may include an employee, employee's spouse or former spouse, and/or the employee's dependent child who is covered under the group health plan on the day before the **qualifying event**. A child born to or placed for adoption with a covered employee during a period of COBRA coverage is also a qualified beneficiary if COBRA has been elected and the child has been enrolled upon birth or adoption. In certain cases involving the bankruptcy of the employer sponsoring the plan, a retired employee, the retired employee's spouse (or former spouse), and the retired employee's dependent children may be qualified beneficiaries. Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries. Note that an event is a qualifying event only if it causes the qualified beneficiary to lose coverage under the plan.

**Qualifying Events for Employees are:**

- Termination of employment, for any reason other than for gross misconduct;
- Reduction in hours;
- Notifying the employer that the employee will not return to work from a Family and Medical Leave Act leave of absence.

**Qualifying Events for Spouses are:**

- Termination of the covered employee's employment, for any reason other than for gross misconduct;
- Reduction in the hours worked by the covered employee;
- Death of the covered employee;
- Divorce or legal separation from the covered employee;
- Covered employee becoming entitled to Medicare resulting in loss of spouse's coverage.

## Qualifying Events for Dependent Children are:

- The same as for the spouse, plus
- Loss of dependent child status due to reaching the maximum age for coverage, marriage, or completion of schooling.

**NOTE:** If you are covered by another group health plan or Medicare at the time of the qualifying event, COBRA must still be offered. Coverage under Medicare or other group health plans does not preclude you from electing COBRA coverage in addition to the other coverage.

## What Are The Notification Deadlines?

An **employer** must notify the plan administrator within **30** days after an employee's death, termination, reduction in hours of employment, entitlement to Medicare or bankruptcy of the employer.

**You** must notify the plan administrator within **60** days after events such as divorce or legal separation or a child's ceasing to be covered as a dependent under the policy.

The **plan administrator** must notify you and all other qualified beneficiaries of the right to COBRA coverage within **14** days after receiving information that a qualifying event has occurred.

Each qualified beneficiary may independently elect COBRA continuation coverage. **You** must notify the plan administrator of election of COBRA coverage **within 60 days** after the qualifying event or after the date the notice to elect COBRA coverage is sent, whichever is later.

## How Much Will COBRA Continuation Coverage Cost?

You must pay the entire premium for the coverage, including the part that was formerly paid by the employer. There may be a 2% administration fee added to the premium. If coverage is extended for an additional 11 months due to a disabling condition, the premium may be up to 150% of the applicable non-COBRA premium for months 19 through 29.

## What Benefits Are Available Under COBRA?

The benefits provided under COBRA coverage must be the same as under the group plan. However, if you were covered by a region-specific plan, such as an HMO, and move from the service area, the HMO coverage may no longer be available. If your employer offers other coverage options that can be extended to the new area, those options must be made available to you.

## How Long Does COBRA Continuation Coverage Last?

COBRA establishes a maximum period of coverage for continuation of health benefits. A health plan may provide longer periods of coverage beyond those required by COBRA. Under COBRA, an individual may be entitled to up to 18 months, 29 months, or 36 months of continuation coverage depending upon which qualifying event(s) triggered the COBRA coverage. The following table illustrates the maximum coverage periods for each qualifying event. Remember that an event is a qualifying event only if it causes the qualified beneficiary to lose coverage under the plan.

<b>Qualifying Event</b>	<b>Who May Elect COBRA</b>	<b>Maximum Coverage Period</b>
Termination of Employment or reduction of hours	Employee and/or covered dependents	18 months
Disability of employee or covered family member at time of COBRA election or within 60 days after election	Employee and/or covered dependents	29 months (18 months plus extension of 11 months)
Divorce or legal separation	Spouse and/or dependent children	36 months
Death of employee	Spouse and/or dependent children	36 months
Entitlement to Medicare by covered employee before a qualifying event	Spouse and/or dependent children	36 months after date of entitlement to Medicare OR 18 months (29 months if there is a disability extension) after the covered employee's employment terminates or his hours are reduced.
Loss of dependent child status	Dependent child	36 months

(Note: While on COBRA, you may experience a subsequent qualifying event that may entitle you to an extension of your COBRA coverage. If you believe this has occurred, please contact the employer for more information.)

### **COBRA coverage can be terminated when:**

- You reach the last day of maximum coverage;
- You fail to make timely premium payments;

- The employer ceases to maintain a group health plan;
- You obtain coverage with another employer group health plan and have satisfied any waiting periods for preexisting conditions under the new plan;
- You become entitled to Medicare after COBRA was elected;
- You engage in conduct that would justify the plan terminating coverage of a similarly situated participant or beneficiary not receiving continuations coverage (such as fraud).

**NOTE:** If you are **already covered** by Medicare or another group health plan, you can elect COBRA coverage in addition to the other coverage. However, if you obtain Medicare or other group health coverage **after** the election of COBRA, the COBRA coverage will be terminated.

### **COBRA and Medicare Part B**

Be aware, there may be consequences if you waive Medicare Part B when you are first eligible for Medicare believing you can enroll in Medicare Part B when your COBRA coverage ends. If you waive Medicare Part B when you are first eligible for Medicare, you may not enroll in Medicare Part B until an open enrollment period (each January through March) and coverage will not be effective until the following July 1<sup>st</sup> and you will be charged a 10% surcharge for each year of delayed enrollment for as long as you have Medicare Part B. If your COBRA coverage expires in March, for example, you will not be able to enroll in Medicare Part B until the following January and coverage will not be effective until July 1 of the next year. Please contact the Illinois Senior Health Insurance Program at (800) 548-9034 prior to making any decisions regarding your Medicare Coverage.

### **What Happens When COBRA Coverage Ends?**

You or your dependents **may** be eligible to convert coverage to an individual policy at any time during the continuation period or at the end of the period, except when the continuing person becomes eligible for Medicare. Check your policy to find out if a conversion policy is offered. You may also buy a policy on the Health Insurance Marketplace during Open Enrollment (usually November 15 through February 15) even if your COBRA coverage has not expired. You will be required to cancel your COBRA coverage at that time.

You may also want to shop around for an individual policy on your own. You may be able to find better coverage at a more affordable rate. An insurance broker in your area can assist you in applying for individual coverage.

## **Alternatives to COBRA**

There may be other more affordable coverage options for you and your family through the Health Insurance Marketplace, Medicaid, or other group health plan coverage options (such as your spouse's plan). Loss of coverage due to employment termination or reductions in hours triggers a Special Enrollment Period (SEP) under the federal Health Insurance Portability and Accountability Act (HIPAA) and the federal Affordable Care Act (ACA).

Under HIPAA, you may be able to add yourself and dependents to your spouse's employer sponsored group health plan. Check with your spouse's employer to determine if coverage is available to you. The HIPAA special enrollment period grants thirty days for you to enroll in your spouse's coverage if you are eligible. There may be a lapse between the two coverages.

Under the ACA, you may shop the Marketplace for coverage. It is important to understand the COBRA coverage is retroactive back to the date you lose coverage whereas Marketplace coverage and HIPAA coverage is prospective. Federal rules provide a 60 day advance period for individuals who know they will be losing employer coverage to apply for coverage on the Marketplace to avoid a lapse. This is especially important if you or a family member is receiving medical treatment. If you do not have advance notice of your loss of coverage, signing up for a Marketplace plan may create a brief lapse in coverage due to the fact Marketplace policies may not begin for several weeks.

If you choose COBRA over a Marketplace insurance plan, you may not buy coverage through the Marketplace until (1) the next Marketplace Open Enrollment Period, (2) you have a qualifying event that qualifies you for another SEP, or (3) the COBRA coverage expires. Non-payment of your COBRA insurance is not a qualifying event for an SEP on the Marketplace.

For more information regarding COBRA and Marketplace insurance please go to [www.healthcare.gov](http://www.healthcare.gov) , [www.getcoveredillinois.gov](http://www.getcoveredillinois.gov) or (866) 311-1119.

## **Illinois Comprehensive Health Insurance Plan (ICHIP)**

The ICHIP is for federally eligible individuals covered under HIPAA. Coverage is for Illinois residents only who meet the following criteria:

- Have a total of 18 or more of months of creditable coverage and who have no more than a 90 day break between periods of creditable coverage.

- The most recent creditable coverage was provided under a group health plan, government or church plan.
- May not be eligible for group health coverage, Medicare or Medicaid and may not have any other health insurance coverage.
- The most recent coverage must not have been terminated due to non-payment of premium or fraud.
- All other federal COBRA requirements and state continuation options have been elected and exhausted.

For more information regarding the ICHIP program please visit [www.chip.state.il.us](http://www.chip.state.il.us) or call (866) 851-2751.

### **For More Information about COBRA**

Call our  
Office of Consumer Health Insurance  
Toll free at (877) 527-9431 or  
Visit us on our website at [insurance.illinois.gov](http://insurance.illinois.gov) or  
Contact the US Department of Labor at (866) 444-3272: <http://www.dol.gov/ebsa>

### **Related Topics:**

[\*Health Insurance Continuation Rights -- Illinois Law\*](#)

[\*Health Insurance Continuation Rights -- Illinois Spousal Law\*](#)

[\*Health Insurance Continuation Rights – Illinois Dependent Child Law\*](#)



## Comparison of Continuation Laws – Illinois Department of Insurance

	<b>COBRA</b>	<b>Illinois Continuation (mini-COBRA)</b>	<b>Illinois Spousal Continuation</b>	<b>Dependent Continuation</b>
<b>Applicability</b>	Applies to employer groups with 20 or more employees.	Applies to all group HMO and insurance policies which insure employees or members for hospital, surgical or major medical insurance.	Applies to all group accident and health and group HMO policies.	Applies to all group accident and health and group HMO policies.
<b>Who Is Eligible</b>	Employee, spouse or former spouse and/or covered dependent children.	Employees and covered dependents.	Divorced or widowed spouses (any age) and covered dependent children.  Spouses (age 55 or older) of retired employees, and covered dependents.	Covered dependent children of deceased employee, who are not otherwise covered under the Spousal Continuation Law. Covered dependent children who attain the limiting age under the insurance policy or HMO certificate.
<b>Coverage Requirements</b>	Must be covered by the group plan on the day prior to the qualifying event.	Employee and covered dependents must be covered on the group plan for 3 continuous months before qualifying event.	Spouse and dependents must be covered on the day prior to the qualifying event.	Dependent child must be covered on the day prior to the qualifying event.
<b>Qualifying Events</b>	<p><b>For employee, spouse, former spouse &amp; covered dependent children upon:</b></p> <ol style="list-style-type: none"> <li>1. Termination of employment;</li> <li>2. Reduction in employee's hours.</li> </ol> <p><b>In addition for spouse, former spouse &amp; covered dependent children upon:</b></p> <ol style="list-style-type: none"> <li>1. Employee's eligibility for Medicare;</li> <li>2. Divorce or legal separation from employee;</li> <li>3. Death of employee;</li> </ol> <p><b>In addition, for covered dependent children upon:</b></p> <ol style="list-style-type: none"> <li>1. Loss of dependent child status under plan.</li> </ol>	Loss of coverage due to termination of employment or reduction in hours below the minimum required by the group plan.	<p>Must be offered to divorced spouse or widowed spouse and dependent children upon divorce from or death of employee.</p> <p>Must be offered to spouse (age 55 or older) and dependent children of retiree upon employee's retirement.</p>	<p>Must be offered to dependent child after death of insured if coverage is not available under the Spousal Continuation Law.</p> <p>Must be offered to dependent child upon attainment of limiting age under the insurance policy or HMO certificate.</p>

<b>Benefits</b>	Coverage must be the same as under the group plan.	Coverage must be the same as under the group plan but need not include dental, vision or prescription drugs.	Coverage must be the same as under the group plan.	Coverage must be the same as under the group plan.
<b>Length of Continuation Coverage</b>	<p><b>Loss of employment or reduced hours</b> – maximum of 18 months. May be extended to 29 months if disabled.</p> <p><b>Divorce or legal separation from employee, death of employee or employee entitled to Medicare</b> – maximum of 36 months for spouse, former spouse and dependent children.</p> <p><b>Loss of dependent child status</b>-maximum of 36 months.</p>	12 months	<p><b>Spouse under age 55 – Divorced or widowed spouse (not spouse of retiree) and dependent children</b> – Coverage is provided for maximum of 2 years.</p> <p><b>Spouse age 55 or older – Divorced or widowed spouse or spouse of retiree and dependent children</b> – coverage is provided until spouse is eligible for Medicare.</p>	Coverage is provided for a maximum of 2 years.
<b>Premiums</b>	Premium may not exceed 102% of group rate. Plan may charge 150% after 18 months if the 11-month extension for disability is granted.	Premiums may not exceed the group rate.	<p><b>Spouse under age 55</b> – Divorced or widowed spouse premium may not exceed the group rate.</p> <p><b>Spouse age 55 or older</b> – Divorced or widowed spouse or spouse of retiree, administration fee may be added to group rate after first two years of coverage.</p>	Premiums shall not exceed the amount that would be charged to an employee if the dependent child was an employee <b>PLUS</b> the amount the employer would contribute toward the premium if the dependent child were an employee.