

SAMPLE FORM:**INITIAL COBRA NOTICE**

This is the Notice required to be given to: (a) each participant when he or she first becomes covered by the plan; and (b) each spouse of a participant when that spouse first becomes covered by the plan. The Notice, written in large part by the Department of Labor, describes, in general terms, the rights provided by COBRA to qualified beneficiaries(QBs) and the notice and other obligations imposed upon individuals under COBRA.

Note that it is essential that the Employer distribute Initial COBRA Notices to each covered participant and to each covered spouse as required by the Initial COBRA Notice rules. This is because, if a covered participant or a covered spouse fails to receive the Initial COBRA Notice as required, the Employer may not be able to hold the participant or spouse to the notice deadlines imposed on QBs under COBRA, making the Employer liable, in perpetuity, for COBRA-related obligations to those QBs. In addition, dollar penalties apply to employers who fail to satisfy the Initial COBRA Notice rules.

The Initial COBRA Notice is not to be confused with the Qualifying Event Notices that are sent to employees upon the occurrence of a qualifying event.

EMPLOYERS: TO PREPARE THIS NOTICE FOR YOUR EMPLOYEES YOU WILL

- 1.REPLACE 'EMPLOYER NAME' WITH YOUR COMPANY NAME**
- 2. LIST BOTH THE EMPLOYEE AND SPOUSE (IF ANY) IN THE MAILING ADDRESS**
- 3. PLACE A COPY OF THE NOTICE IN THE EMPLOYEE FILE WITH THE DATE IT WAS MAILED OUT**
- 4. NOTICE TO BE MAILED USING FIRST CLASS MAIL-- DO NOT USE HAND DELIVERY**
- 5. DELETE THE TEXT ABOVE THE SOLID LINE BELOW THIS SENTENCE (IT IS FOR HUMAN RESOURCES PURPOSES ONLY)**

INITIAL COBRA NOTICE

TO: Employee/Spouse and family, Address, City, State, Zip Code
 FROM: [Employer Name]
 DATE: [Date]
 RE: **CONTINUATION COVERAGE RIGHTS UNDER COBRA**

****CONTINUATION COVERAGE RIGHTS UNDER COBRA******Introduction**

You are receiving this notice because you have recently become covered under 'EMPLOYER NAME' (the Plan). This notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan. **This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it.**

The right to COBRA continuation coverage was created by a federal law, Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you and to other members of your family who are covered under the Plan when you would otherwise lose your group health coverage. It can also become available to other members of your family who are covered under the Plan when they would otherwise lose their group health coverage.

This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it. This notice gives only a summary of your COBRA continuation coverage rights. For more information about your rights and obligations under the Plan and under federal law, you should either review the Plan's Summary Plan Description or get a copy of the Plan Document from the Plan Administrator.

The Plan Administrator is your Human Resources' Manager at 'EMPLOYER NAME'.

What is COBRA Continuation Coverage?

COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a "qualifying event." Specific qualifying events are listed later in the notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a "qualified beneficiary." A qualified beneficiary is someone who will lose coverage under the Plan because of a qualifying event. Depending on the type of qualifying event, employees, spouses of employees, and dependent children of employees may be qualified beneficiaries. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

If you are an employee, you will become a qualified beneficiary if you will lose your coverage under the Plan because either one of the following qualifying events happens:

- (1) Your hours of employment are reduced, or
- (2) Your employment ends for any reason other than your gross misconduct.

If you are the spouse of an employee, you will become a qualified beneficiary if you will lose your coverage under the Plan because any of the following qualifying events happens:

- (1) Your spouse dies;
- (2) Your spouse's hours of employment are reduced;
- (3) Your spouse's employment ends for any reason other than his or her gross misconduct;

- (4) Your spouse becomes enrolled in Medicare (Part A, Part B, or both); or
- (5) You become divorced or legally separated from your spouse.

Your dependent children will become qualified beneficiaries if they will lose coverage under the Plan because any of the following qualifying events happens:

- (1) The parent-employee dies;
- (2) The parent-employee's hours of employment are reduced;
- (3) The parent-employee's employment ends for any reason other than his or her gross misconduct;
- (4) The parent-employee becomes enrolled in Medicare (Part A, Part B, or both);
- (5) The parents become divorced or legally separated; or
- (6) The child stops being eligible for coverage under the plan as a "dependent child."

When is COBRA Coverage Available?

The plan will offer COBRA continuation to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction of hours of employment, death of the employee, or enrollment of the employee in Medicare (Part A, Part B, or both), the employer must notify the Plan Administrator of the qualifying event. In addition, if the Plan provides retiree health coverage, then commencement of a proceeding in a bankruptcy with respect to the employer is also a qualifying event where the employer must notify the Plan Administrator of the qualifying event.

You Must Give Notice of Some Qualifying Events

For the other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you must notify the Plan Administrator. The Plan requires you to notify the Plan Administrator within 60 days after the qualifying event occurs. You must send this notice to the Human Resource Manager at 'EMPLOYER NAME'.

How is COBRA Coverage Provided?

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children. For each qualified beneficiary who elects COBRA continuation coverage, COBRA continuation coverage will begin either (1) on the date of the qualifying event or (2) on the date that Plan coverage would otherwise have been lost, depending on the nature of the Plan.

COBRA continuation coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, your divorce or legal separation, or a dependent child losing eligibility as a dependent child, COBRA continuation coverage lasts for up to 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare 8 months before the date on which his employment terminates, COBRA continuation coverage for his spouse and children can last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus 8 months). Otherwise, when the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA continuation coverage generally lasts for only up to a total of 18 months. There are two ways in which this 18-month period of COBRA continuation coverage can be extended.

Disability extension of 18-month period of continuation coverage

If you or anyone in your family covered under the Plan is determined by the Social Security Administration to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to receive up to an additional 11 months of COBRA continuation coverage, for a total maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. This notice should be sent to the Human Resource Manager at 'EMPLOYER NAME'.

Second qualifying event extension of 18-month period of continuation coverage

If your family experiences another qualifying event while receiving COBRA continuation coverage, the spouse and dependent children in your family can get additional months of COBRA continuation coverage, up to a maximum of 36 months. This extension may be available to the spouse and any dependent children receiving continuation coverage if the employee or former employee dies, becomes entitled to Medicare benefits (under Part A, Part B, or both), or gets divorced or legally separated, or if the dependent child stops being eligible under the Plan as a dependent child, but only if the event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred. In all of these cases, you must make sure that the Plan Administrator is notified of the second qualifying event within 60 days of the second qualifying event. This notice should be sent to the Human Resource Manager at 'EMPLOYER NAME'.

If You Have Questions

Questions concerning your Plan or your COBRA continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website).

Keep Your Plan Informed of Address Changes

In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

Plan Contact Information

You may obtain information about the Plan and COBRA coverage on request from: **Human Resources Manager, EMPLOYER NAME.**

Sincerely,
Benefits Manager

Date
Employee Name
Spouse Name
Address

Dear Employee, Spouse and family:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) includes certain provisions that may affect decisions that you make about your participation in the Plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Please carefully read the following:

HIPAA Special Enrollment Rights Notification-

HIPAA provides certain "special enrollment provisions" that may provide a right to enroll in the Plan if: (i) you acquire a new dependent, (ii) you decline coverage under this Plan for yourself or an eligible dependent while other coverage is in effect and later lose that other coverage for certain qualifying reasons, (iii) you or a dependent lose coverage under Medicaid or CHIP due to a loss of eligibility (rather than non-payment), or (iv) you or a dependent become eligible for Medicaid or a State Children's Health Insurance Program. If you request a change pursuant to one of these special enrollment provisions, your coverage will be effective as of the event date that makes you eligible. Specific restrictions may apply, depending on federal and state law.

- ***New Dependent by Marriage, Birth, Adoption, or Placement for Adoption.*** If you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your new dependents. However, you must request enrollment within thirty (30) days after the marriage, birth, adoption, or placement for adoption.
- ***Loss of Other Coverage (Excluding Medicaid or a State Children's Health Insurance Program).*** If you decline enrollment for yourself or for an eligible dependent (including your spouse) while other health insurance or group health plan coverage is in effect, you may be able to enroll yourself and your dependents in this Plan if you or your dependents lose eligibility for that other coverage (or if the employer stops contributing toward your or your dependents' other coverage). However, you must request enrollment within thirty (30) days after your or your dependents' other coverage ends (or after the employer stops contributing toward the other coverage).
- ***Loss of Coverage for Medicaid or a State Children's Health Insurance Program.*** If you decline enrollment for yourself or for an eligible dependent (including your spouse) while Medicaid coverage or coverage under a state children's health insurance program is in effect, you may be eligible to enroll yourself and your dependents in this Plan if you or your dependents lose eligibility for that other coverage. However, you must request enrollment within sixty (60) days after your or your dependents' coverage ends under Medicaid or a state children's health insurance program.
- ***Eligibility for Medicaid or a State Children's Health Insurance Program.*** If you or your dependents (including your spouse) become eligible for a state premium assistance subsidy from Medicaid or through a state children's health insurance program with respect to coverage under this Plan, you may be eligible to enroll yourself and your dependents in this Plan. However, you must request enrollment within sixty (60) days after your or your dependents' determination of eligibility for such assistance.

To request special enrollment or obtain more information, contact your Plan Administrator

Pre-existing Condition Exclusion Notification-

Certain plans may impose a pre-existing condition exclusion that requires you to wait a certain period of time before the Plan will provide coverage. Such an exclusion may last up to twelve (12) months (18 months for a late enrollee) from your first day of coverage or, if you were in a waiting period, from the first day of your waiting period. However, you can reduce the length of an exclusion period by the number of days of your prior creditable coverage. Most prior health coverage is creditable coverage and can be used to reduce the preexisting condition exclusion if you have not experienced a break in coverage of at least sixty-three (63) days. To reduce/eliminate the twelve (12) month (or 18-month) exclusion period by your creditable coverage, you should provide us a copy of a HIPAA Certificate of Creditable Coverage (HIPAA Certificate), which is a form required by HIPAA that describes the health coverage you and your dependents, if any, have or had, and the dates that you were covered by such plan(s).

If you were covered by a group health plan(s) prior to your employment with us, your previous employer and/or their insurance carrier should have provided you with a HIPAA Certificate. If you had coverage under a previous employer but were not provided a HIPAA Certificate, we will help you obtain one from your prior plan or issuer. There are also other ways that you can show that you have creditable coverage. Please contact your Plan Administrator if you need help demonstrating creditable coverage. Each HIPAA Certificate (or other evidence of creditable coverage) will be reviewed by the Plan Administrator with the assistance of the prior plan administrator or insurer, if necessary, to determine its authenticity. Most prior health coverage is creditable coverage and can be used to reduce any preexisting condition exclusions if you have not experienced a break in coverage of at least sixty-three (63) days. To Under COBRA, your right to continuation coverage terminates if you become covered by another employer's group health plan that does not limit or exclude coverage for your pre-existing conditions. If you become covered by another group health plan and that plan contains a pre-existing condition limitation that affects you, your COBRA continuation coverage cannot be immediately terminated. However, if the other plan's pre-existing conditions rule does not apply to you by reason of HIPAA's restrictions on pre-existing condition clauses, the employer's group health plans(s) may terminate your COBRA coverage.

Disability Extension-

Under COBRA, if the qualifying event is a termination of employment or reduction in hours, affected qualified beneficiaries are entitled to continue coverage for up to eighteen (18) months after the qualifying event, subject to various requirements. Before HIPAA, this eighteen (18) month period could be extended for up to eleven (11) months (for a total COBRA coverage period of up to twenty-nine (29) months from the initial qualifying event) if an individual was determined by the Social Security Administration to have been disabled under the Social Security Act at the time of the qualifying event, and if the plan administrator was notified of that disability determination within sixty (60) days of the determination AND before the end of the original eighteen (18) month period. Under HIPAA, if a qualified beneficiary is determined by the Social Security Administration to be disabled under the Social Security Act at any time during the first sixty (60) days of COBRA coverage, the eleven (11) month extension is available to , affected individuals must still comply with the notification requirements in a timely fashion.

If you have any questions about COBRA, or if you have changed marital status, or you or your spouse have changed addresses, please contact HR Department.

Sincerely,

Benefits Manager