



COBRA Virginia



Comparison of Federal and Virginia Continuation Laws

	FEDERAL (COBRA)	VIRGINIA
Covered Employers Health Plans	Group health plans (fully insured and self-insured) maintained by private-sector, state and local government employers with 20 or more employees . However, group health plans sponsored by the federal government or by churches are exempt from COBRA.	Employers not subject to federal COBRA that offer group hospital, group medical and surgical or group major medical insurance to their employees must offer continuation coverage if group health coverage ceases because of the termination of the person's eligibility for coverage prior to Medicare or Medicaid eligibility. Self-insured ERISA plans are not subject to state continuation coverage requirements. Non-ERISA plans that are self-insured should consult their plan's terms.
Qualified Beneficiaries	An employee, spouse or dependent child covered by a group health plan on the day before a qualifying event. 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.	Employee or member who has been continuously insured under the group policy during the entire three-month period immediately preceding termination of eligibility.
Qualifying Events	Events that trigger an obligation to offer COBRA coverage include: <ul style="list-style-type: none"> • Termination of employment for reasons other than gross misconduct (all qualified beneficiaries); • Reduction in the number of hours of employment (all qualified beneficiaries); 	Termination of eligibility for group health coverage (all qualified beneficiaries) Continuation coverage is not available to individuals whose employment is terminated for gross misconduct. Gross misconduct means any conduct connected with the individual's work that would constitute misconduct under Virginia's unemployment law, including deliberately and willfully engaging in conduct that demonstrates a complete

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	<ul style="list-style-type: none"> • Covered employee's becoming entitled to Medicare (spouse and dependent children); • Divorce or legal separation of the covered employee (spouse and dependent children); • Death of the covered employee (spouse and dependent children); and • Loss of dependent child status under the plan (dependent children). 	disregard for the employer's workplace standards and policies.
Maximum Continuation Period	<p>The maximum duration of COBRA coverage depends on the type of qualifying event, as follows:</p> <p>18 months - Employment termination or reduction in hours of work</p> <p>29 months - The Social Security Administration (SSA) determines the qualified beneficiary is disabled during the first 60 days of COBRA coverage. This 11-month extension applies to the qualified beneficiary with the disability and all of the qualified beneficiaries in the family.</p> <p>36 months - Divorce or legal separation, employee's death, entitlement to Medicare or loss of dependent child status</p> <p>36 months - After a qualifying event that is an employment termination or a reduction in hours of work, a second qualifying event occurs that is the death of the employee, the divorce or legal separation of the covered employee and spouse, Medicare entitlement (in certain circumstances) or loss of dependent child status under the plan.</p>	12 months
Early Termination of Coverage	<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; 	Coverage begins on the date that coverage would otherwise have been lost and will end at the end of the maximum 12-month period. It may end earlier if premium is not paid on a timely basis.

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	<ul style="list-style-type: none"> The employer ceases to maintain any group health plan; After the COBRA election, coverage is obtained with another employer group health plan (including any group health plan of a governmental employer); or After the COBRA election, a beneficiary becomes entitled to Medicare benefits. 	
Notice Requirements	<p>Health plan administrators must provide an initial general notice when group health coverage begins. 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>Qualified beneficiaries 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 would end, whichever is later.</p> <p>Additional COBRA notice requirements apply under federal law.</p>	<p>Within 14 days of when the plan sponsor has knowledge of an employee's (or other covered person's) loss of eligibility under the policy, the plan sponsor must provide a written notice to the employee (or other covered person) that describes the individual's continuation coverage rights.</p>
Premium Rules	<p>The maximum amount charged to qualified beneficiaries cannot exceed 102 percent of the plan's total cost of coverage for similarly situated individuals. For qualified beneficiaries receiving the 11-month disability extension, the premium for those additional months may be increased to 150 percent of the plan's total cost of coverage.</p> <p>Plans must provide at least 45 days after the election for making an initial premium payment. The plan sponsor may establish due dates for later payments, but it must provide a minimum 30-day grace period for each payment.</p>	<p>The maximum amount that may be charged for continuation coverage is the insurer's current rate applicable to the group policy plus any applicable administrative fee not to exceed two percent of the current rate.</p> <p>A qualified beneficiary must elect continuation coverage and pay the premium within 31 days after the plan sponsor's notice, but in no event beyond the 60-day period following the date of the termination of the person's eligibility.</p>
Applicable Statutes	<p>IRC § 4980B, ERISA §601 <i>et seq.</i>, 29 CFR §§ 2590.606-1 through 2590.606-4.</p>	<p>Va. Code §38.2-3541</p>

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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 .	State Corporation Commission