



# COBRA West Virginia

## Comparison of Federal and West Virginia Continuation Laws

	FEDERAL (COBRA)	WEST VIRGINIA
<b>Covered Employers and Health Plans</b>	Group health plans (fully insured and self-funded) maintained by private-sector, state and local government employers with <b>20 or more employees</b> . However, group health plans sponsored by the federal government or by churches are exempt from COBRA.	The law generally covers employers with fewer than 20 employees that have employer-sponsored plans providing benefits through an insurance company.
<b>Qualified Beneficiaries</b>	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.	Any individual who, on the day of the qualifying event for the covered employee, was covered under the health benefit plan by virtue of the individual being the covered employee, his or her spouse, or a dependent of the covered employee.
<b>Qualifying Events</b>	<p>Events that trigger an obligation to offer COBRA coverage include:</p> <ul style="list-style-type: none"> <li>• Termination of employment for reasons other than gross misconduct (all qualified beneficiaries);</li> <li>• Reduction in the number of hours of employment (all qualified beneficiaries);</li> <li>• Covered employee's becoming entitled to Medicare (spouse and dependent children);</li> <li>• Divorce or legal separation of the covered employee (spouse and dependent children);</li> </ul>	Involuntary layoff or termination of the covered employee's employment for reasons other than misconduct that would disqualify such employee for unemployment benefits.

	<ul style="list-style-type: none"> <li>• Death of the covered employee (spouse and dependent children); and</li> <li>• Loss of dependent child status under the plan (dependent children).</li> </ul>	
<p><b>Maximum Continuation Period</b></p>	<p>The maximum duration of COBRA coverage depends on the type of qualifying event, as follows:</p> <p><b>18 months</b> - Employment termination or reduction in hours of work</p> <p><b>29 months</b> - 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><b>36 months</b> - Divorce or legal separation, employee's death, entitlement to Medicare or loss of dependent child status</p> <p><b>36 months</b> - 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>	<p>Up to 18 months</p>
<p><b>Early Termination of Coverage</b></p>	<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"> <li>• Premiums are not paid on a timely basis;</li> <li>• The employer ceases to maintain any group health plan;</li> <li>• After the COBRA election, coverage is obtained with another employer group health plan (including any group health plan of a governmental employer); or</li> </ul>	<p>Continuation of benefits may be terminated before the end of 18 months for the following reasons:</p> <ul style="list-style-type: none"> <li>• Failure to make timely payment of required premiums;</li> <li>• The qualified beneficiary becomes covered under any other group health plan;</li> <li>• The qualified beneficiary becomes entitled to Medicare benefits; or</li> <li>• The employer terminates coverage under the group health policy for all employees and does not replace it with similar coverage.</li> </ul>

	<ul style="list-style-type: none"> <li>After the COBRA election, a beneficiary becomes entitled to Medicare benefits.</li> </ul>	
<p><b>Notice Requirements</b></p>	<p>Health plan administrators must provide an <b>initial general notice</b> when group health coverage begins. When a qualifying event occurs, health plan administrators must provide an <b>election notice</b> 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 <b>60th day</b> 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>Any qualified beneficiary may give written notice to the carrier within 20 days after a qualifying event of his or her intent to apply for continuation coverage, identifying the covered employee, the employer and, to the extent such information is known, the names and addresses of all other qualified beneficiaries and the health benefit plan number.</p> <p>Within 15 days after receipt of written notice from a qualified beneficiary, the carrier must send each adult qualified beneficiary an election and premium notice which provides for each beneficiary's election or nonelection of continuation coverage and, if elected, the applicable premium amount due.</p> <p>A covered employee or other qualified beneficiary who wants to elect continuation coverage must do so in writing to the carrier within 30 days after receiving notice from the carrier and must include payment of the initial premium set forth in such notice.</p> <p>Every plan booklet or other explanation of rights under a health benefit plan must include all information necessary for a qualified beneficiary to comply with these election requirements and either a form for notice of such election to the carrier or directions on how to find such a form on the West Virginia Insurance Commissioner's website.</p>
<p><b>Premium Rules</b></p>	<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</p>	<p>Individuals must be allowed to continue coverage at the same group rate. The premium charged for continuation of coverage may not exceed 100% of the applicable premium. After an election and initial premium payment, the carrier must bill the beneficiary for premiums no more often than monthly and with an allowance for a 30-day grace period for payment.</p>

	payment. The plan sponsor may establish due dates for later payments, but it must provide a minimum 30-day grace period for each payment.	
<b>Applicable Statutes</b>	IRC § 4980B, ERISA §601 <i>et seq.</i> , 29 CFR §§ 2590.606-1 through 2590.606-4.	West Virginia Code § 33-16-3; West Virginia Legislative Rules §§ 114-93-1 through 114-93-3.
<b>Government Agency Contact</b>	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 <a href="#">Department of Labor</a> .	<a href="#">West Virginia Offices of the Insurance Commissioner</a>