



# Employee **Benefit** **Alert**

## Updated **COBRA** Notice & Disclosures Requirements

On May 26, 2004, the Department of Labor issued final rules on the notice and disclosure requirements under the Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA is the federal law that requires employers to offer employees the opportunity to continue group health plan coverage when such coverage would otherwise end due to certain qualifying events such as job loss, divorce or death. The new rules apply to plan years commencing after November 26, 2004.

The following is a summary of the new rules and regulations:

**Initial Notice:** The Plan Administrator of a group health plan must provide a written notice of COBRA rights to each covered employee and his/her covered spouse. The new rules clarify that:

- The notice must be provided within 90 days from the date that coverage under the plan begins.
- A single notice may be provided to both the covered employee and the covered employee's spouse if they reside at the same location and their coverage begins at the same time. However, hand delivery of the notice at the workplace to the covered employee does not constitute delivery to the spouse.
- The plan administrator may incorporate the Initial Notice within the plan's summary plan description (SPD) provided the SPD contains all the required infor-

mation and is provided in a timely manner.

- The Initial Notice must include specific information. Parker, Smith & Feek will be providing it's clients with a sample notice for their use.

### Notice Requirements for Employers:

- If you are an employer who utilizes a third party administrator to administer your COBRA, you must notify your administrator within 30 days of the later of the date of a qualifying event or the date of the loss of coverage.
- The notice must include sufficient information to enable the Administrator to identify the plan, the covered employee, the qualifying event or the date of the loss of coverage.

(Of course, if you are an employer that administers your own COBRA, this step is not necessary.)

### Notice Requirements for Plan Administrators:

- The Plan Administrator must provide notice to each qualified beneficiary of the beneficiary's right to elect COBRA continuation. This notice must be provided within 14 days after the Administrator receives notice of a qualifying event. However, when the employer is also the Administrator the notice must be provided within 44 days of the later of the date of the qualifying

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event, or the date on which the qualified beneficiary loses coverage due to the qualifying event.

- The election notice must contain specific information. Parker, Smith & Feek will be providing it's clients with a sample notice for their use.
- In the event the Administrator receives a notice of a qualifying event from an individual not entitled to COBRA, the Administrator must notify the individual of the reason why the individual is not entitled to COBRA. The notice must be furnished within the same time frame as the election notices.
- The Administrator must provide a notice to each qualified beneficiary as soon as practicable following the determination that continuation coverage shall terminate before the end of the maximum coverage period. This notice must include the reason COBRA has been terminated early (for example, late payment or failure to pay premiums), the date of termination of coverage, and describe any rights the qualified beneficiary may have under the plan to elect alternative coverage.

## Notice Requirements for Employees and Beneficiaries:

- Covered employees and qualified beneficiaries must notify the Plan Administrator of a qualifying event due to a) divorce or legal separation, or b) a child's loss of dependent status under the plan. The notice must be provided within 60 days of the later of a) the date of the qualifying event, b) the date they would lose coverage as a result of the qualifying event, or c) the date they are notified of their obligation and of the procedures to provide this notice.

- Qualified beneficiaries are required to notify the plan administrator within 60 days of the date of a second qualifying event that would entitle the beneficiary to extend continuation coverage beyond 18 months.
- Qualified beneficiaries that have received a Social Security Administration (SSA) determination of disability during the first 60 days of a termination or reduction in hours of employment are required to notify the Plan Administrators within 60 days of the receipt of the SSA determination **and** before the end of the original 18-month continuation period.
- Qualified beneficiaries provided additional coverage as a result of a disability are required to notify the plan administrator within 30 days of any final determination that the beneficiary is no longer disabled.

The above changes go into effect on the first day of the plan year that begins on or after November 26, 2004. For example, if your plan renews on January 1, you have until January 1, 2005 to comply.

In the meantime, we suggest that all employers subject to COBRA review their COBRA notices and procedures. For assistance with this or any other benefit or insurance subjects, please call the Parker, Smith & Feek benefits team at 800-457-0220.

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