



Comparison of Federal and California Continuation Laws

	FEDERAL (COBRA)	CALIFORNIA
Covered Employers and Plan Coverage	Group health plans maintained by private-sector employers with 20 or more employees, employee organizations, or state or local governments; coverage must be identical to that available to similarly situated beneficiaries who are not receiving COBRA coverage under the plan (generally, the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage).	Every health care service plan contract that provides coverage under a group benefit plan to an employer with 2 to 19 employees and which is not covered by federal COBRA must offer continuation coverage to employees and dependents. Employers with more than 20 employees, once employee has exhausted federal COBRA, but employee had less than 36 months of federal COBRA coverage.
Qualified Beneficiaries (Employee / Dependents)	Individual covered by a group health plan on the day before a qualifying event - either an employee, the employee's spouse, or an employee's dependent child. In certain cases, a retired employee, the retired employee's spouse, and the retired employee's dependent children may be qualified beneficiaries. 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. Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.	Any individual who, on the day before the qualifying event, is covered under a group benefit plan offered by a disability insurer, and has a qualifying event (without evidence of insurability).
Continuation Period	18 months - COBRA beneficiaries generally are eligible for group coverage a maximum of 18 months for qualifying events due to employment termination or reduction of hours of work. 29 months - Disability can extend the 18 month period of continuation coverage for a qualifying event that is a termination of employment or reduction of hours. If certain requirements are met, the entire family qualifies for an additional 11 months of COBRA continuation coverage. Plans can charge 150% of the premium cost for the extended period of coverage.	Up to 36 months – depending upon qualifying event Plans can charge not more than 110 percent of the applicable rate charged for covered employee or dependent. In the case of a qualified beneficiary determined to be disabled under the United States Social Security Act, plans can charge no greater than 150% of the group rate after the first 18 months of continuation coverage.



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Continuation Period, cont.	36 months - Under COBRA, participants, covered spouses and dependent children may continue their plan coverage when they would otherwise lose coverage due to divorce (or legal separation) for a maximum of 36 months.	
Qualifying Events	<p>Qualifying Events for Employees: Voluntary or involuntary termination of employment for reasons other than gross misconduct – 18 months Reduction in the number of hours of employment – 18 months</p> <p>Qualifying Events for Spouses: Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct – 18 months Reduction in the hours worked by the covered employee – 18 months Covered employee's becoming entitled to Medicare – 36 months Divorce or legal separation of the covered employee – 36 months Death of the covered employee – 36 months</p> <p>Qualifying Events for Dependent Children: Loss of dependent child status under the plan rules – 36 months Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct – 18 months Reduction in the hours worked by the covered employee – 18 months Covered employee's becoming entitled to Medicare – 36 months Divorce or legal separation of the covered employee – 36 months Death of the covered employee – 36 months</p>	<p>Any of the following events that would result in a loss of coverage under the group benefit plan:</p> <p>Death of the covered employee;</p> <p>Termination of employment or reduction in hours of the covered employee's employment (except for gross misconduct);</p> <p>Divorce or legal separation of covered employee from spouse;</p> <p>Dependent's loss of dependent status; and with respect to covered dependent only, the covered employee's entitlement to benefits under Medicare.</p>
Eligibility	To be eligible for COBRA coverage, must have been enrolled in employer's health plan when employed and health plan must continue to be in effect for active employees. COBRA continuation coverage is available upon the occurrence of a qualifying event that would, except for the COBRA continuation coverage, cause an individual to lose his or her health care coverage.	"Continuation coverage" means extended coverage under the group benefit plan under which an eligible employee or eligible dependent is currently covered, or, in the case of a termination of the group benefit plan or an employer open enrollment period, extended coverage under the group benefit plan currently offered by the employer.



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<p>Notice Requirements</p>	<p>Employers or health plan administrators must provide an initial general notice when employee is hired if entitled to COBRA benefits.</p> <p>When no longer eligible for health coverage, employer has to provide a specific notice regarding rights to COBRA continuation benefits.</p> <p>Employers must notify their plan administrators within 30 days after an employee's termination or after a reduction in hours that causes an employee to lose health benefits.</p> <p>The plan administrator must provide notice to individual employees of their right to elect COBRA coverage within 14 days after the administrator has received notice from the employer.</p> <p>Employee 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 ceased, whichever is later. Otherwise, employee will lose all rights to COBRA benefits.</p> <p>Spouses and dependent children covered under such health plan have an independent right to elect COBRA coverage upon employee's termination or reduction in hours.</p>	<p>A plan's evidence of coverage must disclose the rules of continuation coverage and miscellaneous notice requirements, including a statement that individuals should examine their options carefully before declining continuation coverage.</p> <p>Employers are required to notify the insurer in writing of any employee who has had a qualifying event within 30 days of the qualifying event.</p> <p>Insurer/employer shall provide election information to qualified beneficiary within 14 days of receiving notice of qualifying event.</p> <p>Employers are required to notify qualified beneficiaries currently receiving continuation coverage and whose coverage will terminate under a group plan prior to the beneficiary's full coverage period, of the ability to continue coverage under a new group benefit plan for the balance of the full coverage period. This notice must be provided the later of 30 days prior to termination or when all enrolled employees are notified.</p> <p>Qualified beneficiaries must notify insurer/employer in writing of qualifying events within 60 days, or be disqualified from continuation coverage.</p>
<p>Termination of Coverage</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> <p>Premiums are not paid on a timely basis.</p> <p>The employer ceases to maintain any group health plan.</p>	<p>Continuation coverage requirements do not apply to the following individuals:</p> <p>Individuals who are entitled to Medicare benefits or become entitled to Medicare benefits (entitlement to Part A only constitutes entitlement to benefits)</p> <p>Individuals who have other hospital, medical or surgical coverage, or who are covered or become covered under another group benefit plan that provides coverage and does not impose any pre-existing condition exclusion or limitation</p>



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<p>Termination of Coverage, cont.</p>	<p>After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of such beneficiary. However, if other group health coverage is obtained prior to the COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.</p> <p>After the COBRA election, a beneficiary becomes entitled to Medicare benefits. However, if Medicare is obtained prior to COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election.</p>	<p>Individuals who are covered, become covered, or are eligible for federal COBRA coverage or coverage under Ch. 6A of the PHSA</p> <p>Qualified Beneficiaries who fail to timely meet notification requirements</p> <p>Qualified beneficiaries who fail to timely submit correct premium amount, or fail to satisfy other terms/conditions of policy/contract</p>
<p>Conversion Rights</p>	<p>Some plans allow participants and beneficiaries to convert group health coverage to an individual policy. If this option is generally available from the plan, a qualified beneficiary who pays for COBRA coverage must be given the option of converting to an individual policy at the end of the COBRA continuation coverage period. The option must be given to enroll in a conversion health plan within 180 days before COBRA coverage ends. The premium for a conversion policy may be more expensive than the premium of a group plan, and the conversion policy may provide a lower level of coverage. The conversion option, however, is not available if the beneficiary ends COBRA coverage before reaching the end of the maximum period of COBRA coverage.</p>	<p>Employee and dependents are eligible upon termination of employment or group coverage; Dependent spouse is eligible upon change in marital status or death of employee. No evidence of insurability is required.</p> <p>Employers must notify employees of their conversion coverage rights within 15 days of termination of group coverage.</p> <p>Individuals have 63 days after group coverage ends to apply and make a first premium payment for conversion coverage.</p>
<p>Other</p>		<p>Labor Dispute – during a labor dispute, coverage may continue for up to six months after the cessation of work if employees covered by the policy timely pay both the individual and employer contribution of the premium.</p>
<p>Applicable Statutes</p>	<p>IRC § 4980B, ERISA §601 <i>et seq.</i></p>	<p>CA Health and Safety Code § 1366.20-.29, 1373.1 & 2, 1373.6</p>
<p>Government Agency Contact</p>	<p>Depts. of Labor and Treasury (private sector plans); Dept. of Health and Human Services (public sector plans)</p>	<p>CA Department of Insurance (Indemnity Policies) and Department of Managed Health Care (HMO/Managed Care Plans)</p>

This Chart is provided to you for general informational purposes only. It broadly summarizes state and federal statutes, but does not include references to other legal resources (e.g., supporting regulations, or formal or informal opinions of state offices of commissioners of insurance) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.



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Update of Federal COBRA

FEDERAL COBRA PREMIUM SUBSIDY

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended, provides a 65 percent COBRA premium subsidy for employees and their dependents who were involuntarily terminated from employment between Sept. 1, 2008 and May 31, 2010.

Eligibility/Premium Assistance: An individual who was involuntarily terminated from employment between Sept. 1, 2008 and May 31, 2010, and timely elects COBRA, along with their eligible family members, are “assistance eligible individuals” or “AEIs” eligible for the COBRA premium subsidy. Employees, who experienced a reduction in hours before their termination, and their eligible family members, may also be eligible for the subsidy. The subsidy lasts for up to 15 months, or until the individual is eligible for other group health plan coverage or Medicare, if earlier.

Extended Election Period: If an employee lost coverage due to a reduction in hours of employment, did not make (or discontinued) a COBRA election and was later involuntarily terminated on or after March 2, 2010, the individual may be eligible to elect COBRA coverage and receive the premium subsidy.

Plan Enrollment Option: A plan was required to permit an individual to enroll in different coverage if it is also offered to active employees, is major medical coverage, and the premium does not exceed the premium of the individual’s prior coverage.

Notice Provisions: Plans were required to notify certain current and former enrollees of the premium subsidy. The Department of Labor created model notices for this purpose. In addition to other notice rules, a **General Notice** including information on the subsidy and election information had to be given to all qualified beneficiaries who experienced any type of qualifying event from Sept. 1, 2008 through May 31, 2010. Individuals who are terminated any time after May 31, 2010 must be provided with a COBRA Election Notice, but are not required to receive information about the premium subsidy.

APPLICATION TO STATES: Continuation coverage under a state program providing comparable coverage (i.e., state “mini-COBRA” laws applicable to employers with fewer than 20 employees) is subject to the COBRA premium subsidy and notice provisions of ARRA. ARRA does not change any requirement of a state continuation coverage program. ARRA only allows Assistance Eligible Individuals who elect continuation coverage under state insurance law to receive a premium reduction for up to 15 months. It also allows Assistance Eligible Individuals to switch to other coverage offered to active employees if permitted by the plan provided that the new coverage is no more expensive than the prior coverage. States were permitted, but not required, to offer an extended election period.

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