



➤ December 3, 2024

Know the Do's and Don'ts of COBRA Compliance

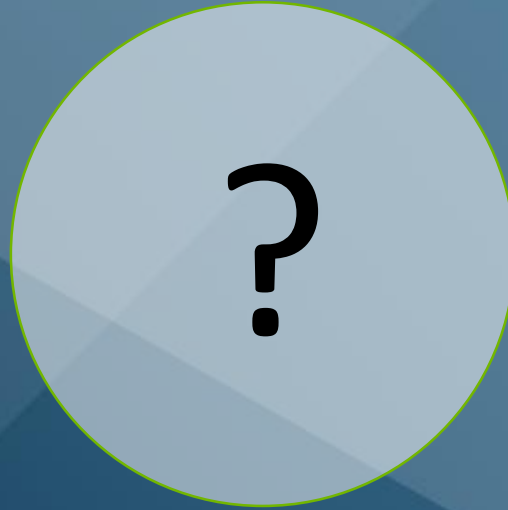


Presentation By:
Tammy Parr

Before We Begin



We are recording today's webinar



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Coast to Coast Administration



**BASIC services over
20,000 employers
nationwide.**



Technology Driven HR Solutions to Take Your Company Further

Suite of HR Benefits, Payroll and Leave Management, and Compliance solutions offered individually or bundled.



➤ Presenter



Tammy Parr

Tammy Parr is an Independent Sales Director at BASIC. With over 37 years of experience working with COBRA, Tammy leverages her expertise to ensure clients and insurance brokers are fully compliant every step of the way. Clients appreciate Tammy's extensive regulatory knowledge, which allows her to recognize and satisfy personalized needs for companies of all sizes and industries. Insurance brokers love working with Tammy because they know she wants the best for their clients.

COBRA - Consolidated Omnibus Budget Reconciliation Act of 1985



Main Intent

- Provide temporary access to health insurance when it would have been lost
- Shift healthcare cost from public sector to the private sector
- Reduce healthcare premiums and lost tax revenues by reducing the number of uninsured medical expenses

➤ What Is COBRA?

- “COBRA” is the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended
- Provides for continuation of existing group health plan coverage for qualifying employees, covered spouses and covered dependents
- Legally protected right under the Internal Revenue Code, Employee Retirement Income Security Act of 1974, and the Public Health Service Act

➤ Who Must Comply With COBRA?

- All employers with 20 or more employees on 50% of their typical business days in the preceding calendar year
- Common Ownership
 - a controlled group of corporations (Code §414(b));
 - a group of trades or businesses under common control (Code §414(c));
 - an affiliated service group (Code §414(m)); and
 - certain other arrangements described in regulations (Code §414(o)).⁵⁵

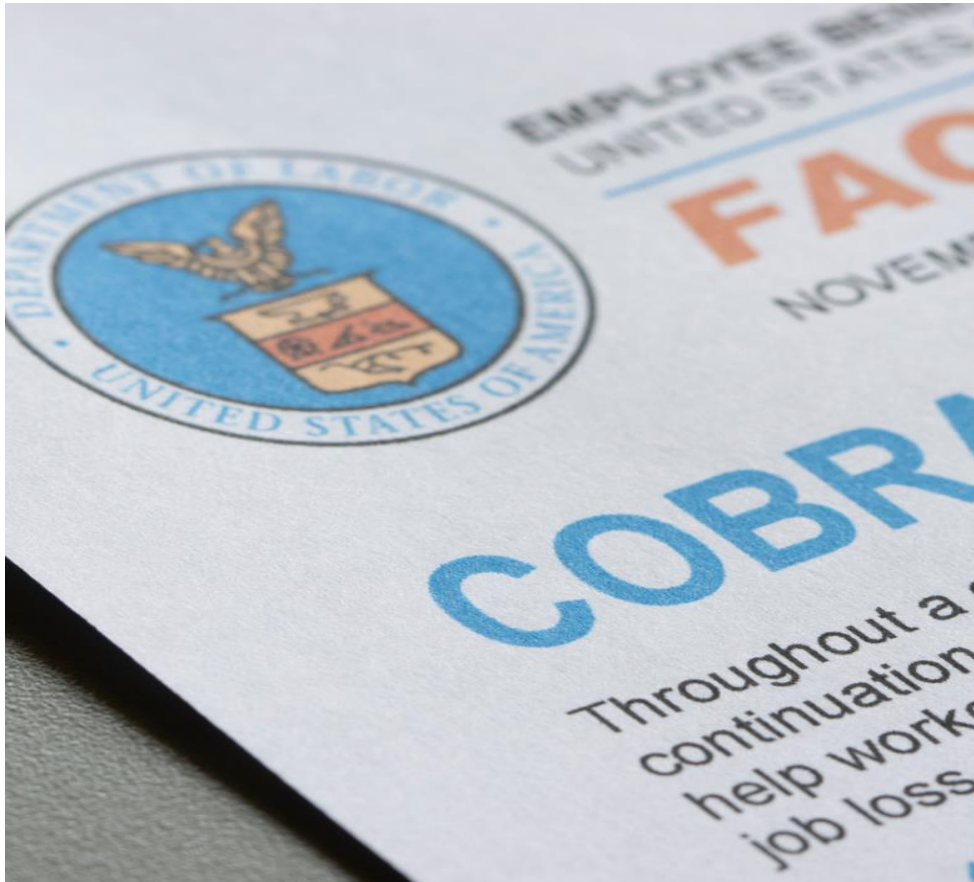
➤ Who Must Comply With COBRA?

- Exceptions
 - Small employer plans, federal government plans, church plans
- Downsizing employer rule
 - Shrinking: subject to COBRA until calendar year after the average number of employees is less than 20 and can't drop COBRA for those individuals already covered by COBRA

➤ Who Qualifies?

- Qualified Beneficiaries (“QB”)
 - Covered employees (but only if, on the day before a qualifying event, they are covered under a plan by virtue of being covered employees, and only as to the qualifying events of termination of employment or reduction of hours);
 - Federally recognized spouses and dependent children of covered employees (but only if, on the day before a qualifying event, they are covered under a plan by virtue of being a covered employee's spouse or dependent child); and
 - Children born to, or adopted by, a covered employee during a period of COBRA continuation coverage
- **QB Rights – QB have the same rights, under the same terms and conditions, as a similarly situated non-COBRA beneficiary (active employee)**

➤ Plans Subject to COBRA



Group Health Insurance Plans

- Satisfies two criteria:
 - 1) provides medical care, and
 - 2) is maintained by an employer

Dental, vision, and prescription drug plans

HMO

Defined Contribution Plans

Flexible Spending Accounts

Health Reimbursement Arrangements

Employee Assistance Plans if medical advice provided

Wellness Programs

➤ Plans Not Subject to COBRA

Dependent Care FSA

Health Savings Account

Long/Short-Term Disability

Life Insurance/AD&D

➤ Qualifying Events

- Voluntary Termination
- Involuntary Termination
 - Gross misconduct exception
- Reduction of Employee's Hours
 - Change in premium arrangement
- Death of Employee
- Divorce or Legal Separation
 - Removals in anticipation of the event
- Medicare Entitlement (in extremely rare circumstances)
- Dependent Child ceasing to be a dependent



➤ Duration of Continuation of Coverage

- Voluntary or involuntary termination - 18 months
- Reduction of Employee's Hours – 18 months
- Death of Employee – 36 months for spouse and/or dependents
- Divorce or Legal Separation – 36 months for spouse and/or dependents
- Dependent Child ceasing to be a dependent – 36 months

➤ Disability Extension of an 18-Month Period

- If any one of the qualified beneficiaries in the family is disabled and meets certain requirements, all of the qualified beneficiaries receiving continuation of coverage are entitled to an 11-month extension.
- The maximum period in this situation is 29 months of continuation of coverage.
- Social Security Administration (SSA) must determine the disability before the 60th day of continuation of coverage.

➤ FMLA Leave of Absence

- Beginning of FMLA leave *is not* a qualifying event
- End of FMLA leave *is* a qualifying event *if* employee does not return to work
 - Even if employee did not maintain coverage during FMLA leave
 - Even if employee doesn't repay premiums in arrears during leave

➤ Notices – Most Notable

- **Initial/General Notice** – Informs employees of their COBRA rights and responsibilities (generally within 90 days of commencement of plan coverage) QB
- **Election/Qualifying Event Notice** – Plan administrator informs all QBs of their right to continue health insurance under COBRA with reference to a specific Qualifying Event
 - Clock starts with triggering event (COBRA maximum period and notification period begins with loss of coverage)
 - Employer notice to plan administrator within 30 days, plan administrator to QB within 14 days (or 44 days total where employer and plan administrator are same)
- **Notice from QB to the plan administrator** – Divorce, Dependent ceasing to be a Dependent, Secondary Event, Disability Determination, or no longer deemed disabled

➤ Notices – Other Mandatory

- **Notice of unavailability** – Where plan administrator determines that the QBs covered by the qualifying event notice are not entitled to COBRA (or second QE extension)
- **Notification of plan changes** – Same schedule as SMMs
- **Notice of insignificant premium underpayment** – As soon as possible and give reasonable period for payment
- **Early termination** – As soon as administratively possible
- **ERISA disclosures & open enrollment materials** – SPD must contain COBRA information and can serve as initial notice if provided to all individuals covered under the Plan (e.g., spouse and dependents) so separate notice is advisable, SBCs, SMMs
- **Disclosure to health care providers** – During election period, the 45-day premium payment period, and the 30-day premium grace period
- **Conversion notice** – During the last 180 days of COBRA maximum coverage period

➤ Notices – Optional But Recommended

- **Expiration** – During the last 60 days of COBRA if terminating at maximum coverage period
- **Coupon Books/Invoices** – Should indicate they are reminders and not bills, and payment is due even if the coupon or invoice is not provided
- **Confirmation of COBRA election** – Can serve to eliminate confusion
- **Advance notice of premium changes** – DOL has informally advised that COBRA cannot be terminated for insufficient payment if QB not provided reasonable advance notice of increased premiums and opportunity to pay increased premiums
- **Late premium payment reminder letters**
- **Letters regarding loss of dependent status, or spouses or children dropped of coverage, eligibility for Medicare resulting in COBRA termination**

➤ COBRA Premiums

- Monthly payments must be allowed
- Grace period must be allowed of at least:
 - 45 days after election of coverage – must be all premiums through payment date!
 - 30 days after first day of each month
 - Must be consistently applied

➤ Alternative to COBRA Continuation Coverage: Special Enrollment

- “Special Enrollment” in other group health coverage.
- Upon certain events, group health plans and health insurance issuers are required to provide a special enrollment period for individuals who previously declined coverage and who are otherwise eligible. They may enroll without having to wait until the next open season for enrollment.
- Example: an employee or dependent of an employee losing eligibility for other health coverage.

➤ Alternative to COBRA Continuation Coverage: Marketplace

- The Marketplace offers “one-stop shopping” for individuals and small businesses to find and compare private health insurance options. Cost-sharing reductions and a tax credit that lowers monthly premiums may be available.
- Being offered COBRA continuation coverage does not limit eligibility for coverage or for a tax credit through the Marketplace.

➤ Alternative to COBRA Continuation Coverage: Marketplace cont'd

- Through the Marketplace, individuals also can determine whether they or their dependents qualify for free or low-cost coverage from Medicaid or the Children's Health Insurance Program (CHIP)
- If an employee or dependent chooses to elect COBRA, the employee or dependent will have another opportunity to request special enrollment in another group health plan or the Marketplace once COBRA is exhausted.

➤ Audits

- The Internal Revenue Service (IRS) is the auditing arm for COBRA
 - Mail audit
 - Combo audit
 - Complaint driven audit
 - Reasonable cause – infractions have been corrected within 30 days and depending on severity of issue as to whether penalties are applied
 - Willful Neglect – infractions have not been corrected within 30 days and full penalties may apply



➤ Penalties: Non-Compliance can be costly

- IRS penalties - \$100 per day per violation for one individual, and \$200 per day per violation for two or more individuals
- ERISA penalties - \$110 per day per family member
- Court costs – COBRA is one of the most litigated areas of benefits
- Claims risk - \$\$\$\$\$



Before Q&A



Slides and
Certificate are
in the handout
section



Receive an email
tomorrow with
the recording



Please
complete the
exit survey

BASIC's Solutions

➤ Three Common COBRA Mistakes

1. Assuming COBRA doesn't apply to all group health plans
2. Failing to establish reasonable procedures or identify qualified events or beneficiaries
3. Failing to provide COBRA Election Notice

➤ Why Outsource COBRA

1. It's easy for an employer to unintentionally fall out of compliance
2. It's time consuming if administered correctly
3. Administrators take the majority of liability off of employers
4. Administrators can serve as a buffer between the employer and former workers

One of the most commonly outsourced HR functions.

➤ Introducing BASIC's New Platform

- ✓ All COBRA & Benefit Accounts on **one platform**
- ✓ COBRA clients have **easy access** to “Endless Aisle” of CDA benefit accounts
- ✓ **Employee-Centric:** respond to & manage diverse needs of workforce at any life stage
- ✓ Vendor **consolidation**
- ✓ **Peace of Mind:** Audit Guarantee and Hold Harmless

CUSTOMERS WANT IT, AND WE DELIVERED IT!



➤ New Features Customers Will Love

Improved Feature Functionality

- ✓ Single sign-on for **everything**
- ✓ **Better**, more responsive service
- ✓ Participants pay **their** way
- ✓ **Integrated** web-based & mobile participant experience
- ✓ **Industry-leading** security



➤ PLUS, BASIC COBRA clients will still receive...



Open
enrollment
assistance



Access to
comprehensive,
easy-to-
understand
reports



Ability to add
participants
& update rates



Ability
to download
and manage
notices



Ability to track
service
requests &
monitor
service
activity

➤ One Integrated Experience

- One Platform
- One Single Sign-on
- One Mobile App
- One Debit Card
- Includes:
 - 50+ Benefit Accounts
 - COBRA
 - State COBRA
 - Retiree Billing
 - Leave of Absence Billing



QUESTIONS



THANK YOU

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