

Initial COBRA Continuation Coverage Notification of Rights and Obligations

You are receiving this notice because you have recently become, or are covered under a group health and welfare plan maintained by the County of San Bernardino. Federal law¹ requires the County to offer all covered active employees, their covered spouse and dependents (“Qualified Beneficiaries”) the opportunity to elect a temporary extension of their plan coverage (called “Continuation Coverage” or “COBRA Coverage”) in certain instances where coverage under a group plan would otherwise end. The County has also chosen to extend this continuation coverage to registered domestic partners.

This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it. This is a brief summary of your rights and obligations under current law. It is important that all covered individuals take the time to read this notice carefully and be familiar with its contents. Should an actual qualifying event occur in the future, the Plan Administrator will send you additional information and the appropriate election notice at that time. **Please take special note, however, of procedures and your notification obligations, which are highlighted in this notification.**

A group health plan includes any major medical plan, dental plan, vision plan, health Flexible Spending Account (FSA) or other plan sponsored by the County that provides medical care. For simplicity, any such group health plan is referred to in this notice as the “Plan.” You will pay the entire premium for the COBRA continuation coverage you elect.

Read this notice carefully and keep it with your records

Qualified Beneficiaries

“Qualified Beneficiaries” are generally the employee, the employee’s spouse/registered domestic partner or the employee’s dependent children who are covered by the Plan on the day before a “Qualifying Event.” Under federal law, the term “spouse” includes a person of the opposite sex married to the employee according to the state law in which they reside. However, the County does extend these election rights to registered domestic partners.

Qualifying Events

Qualifying Events are defined as certain events that cause an individual to lose health coverage. The type of Qualifying Event determines the amount of time a Plan must offer their health benefits to Qualified Beneficiaries.

Qualifying Events for the Employee

If you are a covered employee, you have the right to elect Continuation Coverage for yourself and/or your eligible dependents if you lose Plan coverage because of any of the following Qualifying Events:

- Voluntary or involuntary termination of your employment (for reasons other than your gross misconduct).
- Reduction in the hours of your employment.

Qualifying Events for Spouse and Registered Domestic Partners

If you are the covered spouse/registered domestic partner of an employee, you have the right to elect Continuation Coverage if you lose Plan coverage because of any of the following Qualifying Events:

- The death of your spouse/registered domestic partner.
- Voluntary or involuntary termination of your spouse/registered domestic partner’s employment (other than gross misconduct) or reduction in your spouse/registered domestic partner’s hours of employment.
- Divorce, legal separation or dissolution of domestic partnership.
- Your spouse/registered domestic partner becomes enrolled in Medicare (Part A, Part B or both).

Qualifying Events for Dependent Children

If you are the covered dependent child of an employee, you have the right to elect Continuation Coverage if Plan coverage is lost because of any of the following Qualifying Events:

- Voluntary or involuntary termination of your employee parent’s employment (for reasons other than gross misconduct) or reduction in your employee parent’s hours of employment with the County of San Bernardino.
- The death of the employee parent.

¹ April 7, 1986, a federal law was enacted, Public Law 99-272, Title X, the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), amending the Public Health Services Act (“PHSA”). The PHSA requires San Bernardino County to provide continuation coverage for its employees.

- Parent’s divorce, legal separation or dissolution of registered domestic partnership.
- The employee parent becomes enrolled in Medicare (Part A, Part B or both).
- You cease to be a “dependent child” under the terms of the Plan(s).

Sometimes, filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to the County of San Bernardino, and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee will become a qualified beneficiary with respect to the bankruptcy. The retired employee’s spouse/registered domestic partner, surviving spouse/registered domestic partner, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.

Required

Notifications from the Employee, Spouse/Registered Domestic Partner and Dependent(s)

If a spouse/registered domestic partner, or dependent child loses coverage under the Plan(s) due to a divorce, legal separation, dissolution of registered domestic partnership or a child losing dependent status under the terms of the Plan(s) then you (the employee), spouse/registered domestic partner, or dependent child have the responsibility to provide written notice to the Plan Administrator (contact information listed on page 7 of this notice) of the loss of dependent status under the terms of the Plan(s). The employee or covered dependent must give this written notice within 60 days of the date of the event or the date coverage terminates under the terms of the Plan(s) because of the event, whichever is later.

If you or your family member fails to notify the Plan Administrator during the 60-day period, the individual losing coverage will NOT be offered the option to elect Continuation Coverage.

Required

Notification from the Employer and Plan Administrator

Within 31 days of the date of the loss of coverage due to the employee’s termination or reduction in hours, death or entitlement to Medicare, the employer is required to notify the Plan Administrator of the loss of coverage (no action is required by employee, spouse/registered domestic partner or dependent). Upon receiving notice of a divorce, legal separation, dissolution of registered domestic partnership, a child losing dependent status, the covered employee’s termination of employment, reduction in hours, death of the employee, or the employee parent becoming enrolled in Medicare, the Plan Administrator will notify the affected Qualified Beneficiary of the right to elect Continuation Coverage within 14 days.

Election of Continuation Coverage

The Qualified Beneficiary (the employee or eligible dependent) must elect Continuation Coverage within 60 days after the Plan coverage ends or within 60 days after the Plan Administrator provides you or your covered dependent(s) with notice of the right to elect Continuation Coverage, whichever is later.

If you or your eligible dependents do not elect Continuation Coverage within this 60-day election period, you will lose your right to elect Continuation Coverage.

Each
Qualified

Beneficiary covered by the Plan on the day before the Qualifying Event has *independent* election rights. A spouse/registered domestic partner, or dependent child may elect Continuation Coverage even if the covered employee does not. You (the employee) and/or spouse/registered domestic partner may elect Continuation Coverage for all qualifying family members.

A Qualified Beneficiary does not have to show that he/she is insurable to choose Continuation Coverage. However, Continuation Coverage is available to Qualified Beneficiaries subject to their continued eligibility. The Plan Administrator reserves the right to verify eligibility status. If it is determined that an individual is not a Qualified Beneficiary, he/she is not entitled to Continuation Coverage.

Type of Coverage

If a Qualified Beneficiary chooses Continuation Coverage, the County provides coverage that is identical to the coverage provided to similarly situated active employees or family members. If the coverage for similarly situated employees or family members is modified, then COBRA Coverage will be modified in the same way. When a Qualified Beneficiary is first eligible for COBRA Coverage, he/she only has the right to continue Plan benefits (for example, medical, dental or vision benefits) he/she had on the day before the event causing the Qualified Beneficiary’s loss of coverage. However, a Qualified Beneficiary does have the right to change/add Plan benefits during the annual Open Enrollment period, assuming regular employees may change their Plan benefits during this time. During Open Enrollment, a Qualified Beneficiary may add any eligible dependents he/she did not have enrolled at the time of the Qualifying Event (their coverage will depend upon the Qualified Beneficiary continuing coverage under COBRA; dependents added during open enrollment are not considered Qualified Beneficiaries).

Under the provisions of COBRA, each Qualified Beneficiary has a separate right to elect to continue coverage for each of the employer’s separate health and welfare plans. For instance, a Qualified Beneficiary could elect to continue his/her group medical

coverage and waive the continuation of his/her group dental coverage. The applicable premiums will vary depending on the coverage elected. If a Qualified Beneficiary is covered by a region specific Health Maintenance Organization (HMO), and he/she is moving outside of the HMO service area, additional rights may be available to the Qualified Beneficiary at the time of the event. Please call the Plan Administrator for additional information.

No Coverage during Election Period

A Qualified Beneficiary will not be covered under the Plan(s) during the 60-day election period and 45-day period allowed to pay for COBRA Coverage. However, if a COBRA coverage election is made in accordance with current COBRA laws and all applicable premiums are paid (as detailed in a later section), then coverage under the health and welfare plan(s) selected will be retroactive to the original loss of coverage date in accordance with federal law. If a provider calls for verification of eligibility or benefits during the election period and the Plan Administrator does not have a record of a timely and properly completed election form and payment of premium, the provider will be told that the Qualified Beneficiary does not have coverage but that he/she will be covered as of the COBRA effective date provided that a timely and properly completed election form and premium payment are received. Upon timely receipt of a properly completed election form and payment of all applicable premiums, Continuation Coverage shall be in effect.

Effective Date of Continuation (COBRA) Coverage

For all Qualifying Events, coverage is lost at the end of the payroll period in which the event occurs. Continuation Coverage begins the first day of the payroll period following the date of the Qualifying Event. Thereafter, COBRA coverage begins on the first day of each successive month. For example, if coverage ends on May 15 for a Qualifying Event, Continuation Coverage begins on May 16 (breaks in coverage are not permitted).

Premium Payments

You (the employee), or a family member are responsible for all premium payments for your Continuation Coverage. As allowed by federal law, your premium payment will be equal to the cost of the coverage you select plus 2% for administration. Exception: If coverage is being continued during a disability extension, then the premiums will be equal to 150% of the cost of coverage during that 11-month disability extension period. The cost may be 110% of the premiums if COBRA Coverage is further continued under California law.

Premium payments for the “initial premium months” are due by the 45th day after electing Continuation Coverage. The initial premium must cover the period that elapsed from the date of the loss of coverage due to the Qualifying Event to the date paid. If you do not make the payment on time, there is no right to Continuation Coverage. All other premiums are due on the 1st day of the month for the month of coverage, subject to a 30-day grace period. If you do not make the payment within the grace period, COBRA Coverage will be canceled as of the last day for which premiums were paid.

How Long Does Your COBRA Continuation Coverage Lasts

18 Months: If a Qualified Beneficiary loses group health coverage because of the employee’s termination of employment (for other than gross misconduct) or reduction in hours, the Qualified Beneficiary can maintain Continuation Coverage for a maximum period of 18 months from the qualifying event date.

29 Month Disability Exception: If the Social Security Administration (SSA) makes a formal determination that a Qualified Beneficiary is totally and permanently disabled according to Title II or XVI of the Social Security Act, the 18-month maximum period of Continuation Coverage can be extended for up to 11 months (for a total of 29 months) for all Qualified Beneficiaries in the family who have elected Continuation Coverage. This extension is only available if:

- the Social Security Administration determines that the individual’s disability began no later than 60 days after the termination of employment or reduction in hours; and
- the Qualified Beneficiary or a family member notifies the Plan Administrator of the Social Security Administration determination within 60 days after the latter of: the date of the qualifying event or the date the determination was received; and
- the notice is received by the Plan Administrator before the end of the 18-month Continuation Coverage period.

The cost of Continuation Coverage during the additional 11-month period will be much higher for a family unit containing the disabled individual than the cost for that coverage for the first 18 months.

Second Qualifying Event Exception: A Qualified Beneficiary who has the right to 18 months of Continuation Coverage due to an employee’s termination of employment (other than for gross misconduct) or reduction of hours has a right to extend coverage an additional 18 months up to a maximum of 36 months in the event a second Qualifying Event occurs during the initial 18-month period. For example, the employee and spouse/registered domestic partner have Continuation Coverage for six months when they

divorce; the divorce is a second Qualifying Event that allows the ex-spouse/registered domestic partner to continue coverage for an additional 30 months (36 months less the 6 months he/she had already used).

Special Rules Involving Employee's Entitlement to Medicare Benefits: This rule applies to the duration of Continuation Coverage for spouse/registered domestic partners and dependents of employees who become eligible for Medicare prior to the Qualifying Event (whether or not coverage is lost at that time):

If a Qualified Beneficiary employee first becomes entitled to Medicare benefits under Title XVIII of the Social Security Act (42 U.S.C. 1395-135ggg) before experiencing a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period for Qualified Beneficiaries other than the covered employee ends on the later of:

- a. 36 months after the date the covered employee became entitled to Medicare benefits; or
- b. 18 months (or 29 months if there is a disability extension) after the date of the covered employee's termination of employment or reduction of hours of employment.

36 Months: If a Qualified Beneficiary lost coverage under the Plan(s) because of the employee's death, divorce, legal separation, dissolution of registered domestic partnership, the employee becoming enrolled in Medicare or because a Qualified Beneficiary loses status as a dependent under the Plan, the maximum coverage period for the Qualified Beneficiary is 36 months from the date of the loss of coverage due to that event.

Shorter Maximum for Health FSAs: The right to Continuation Coverage for a health Flexible Spending Account (FSA) is limited. An employee may continue coverage if he/she has a balance on account in the health care FSA. The Plan Administrator shall determine if the employee qualifies for Continuation Coverage. If so, the maximum period for a health care Flexible Spending Account maintained by the employer ends on the last day of the Plan Year in which the Qualifying Event occurred.

In no event will Continuation Coverage last beyond 36 months from the date of the event that originally made a Qualified Beneficiary eligible to elect COBRA coverage

Open Enrollment Rights and HIPAA Special Enrollment Rights

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) restricts the extent to which group health plans may impose pre-existing condition limitations. If you become covered by another group health plan and that plan contains a pre-existing condition limitation that affects you, your Continuation Coverage cannot be canceled. However, if the other plan's pre-existing condition rules do not apply to you then Continuation Coverage can be canceled. You and your covered dependents will receive a Certificate of Creditable Coverage when your coverage under the County of San Bernardino health plan ends. You will receive another Certificate of Creditable Coverage when your COBRA Coverage ends.

To waive the pre-existing condition clause, you must have prior creditable coverage under another group health plan within the 62 days immediately before the date you enrolled in the Plan. You will receive a Certificate of Creditable Coverage from your Plan Administrator or directly from your past medical plan(s) as proof of prior coverage.

If your dependents were eligible for coverage, but did not enroll in the County-sponsored medical plan because they had other medical coverage, and they lose that other medical coverage, they will be allowed to enroll in the current medical plan during special enrollment periods after their initial eligibility period if certain conditions are met. These special enrollment rules apply to eligible dependents who are not enrolled for coverage under the terms of the Plan. You may also enroll newly acquired dependents under the special enrollment rules.

A dependent is eligible to enroll during special mid-year enrollment periods if the following conditions are met:

- When you declined enrollment for your dependent(s), your dependent(s) had Continuation Coverage under another plan and that Continuation Coverage has since been exhausted (i.e., ceased for any reason);
or
- If the other coverage that applied to your dependent(s) when enrollment was declined was not under a COBRA Continuation provision, either the other coverage has terminated as the result of the loss of eligibility or employer contributions toward that coverage have been terminated. Loss of eligibility includes a loss of coverage as a result of legal separation, dissolution of registered domestic partnership, divorce, death, termination of employment, or reduction in hours.

Children Born to or Placed for Adoption with the Covered Employee during a COBRA Period

A child born to, adopted by, or placed for adoption with the former employee during a period of Continuation Coverage is considered a Qualified Beneficiary unless the employee was a Qualified Beneficiary who elected not to continue coverage for himself/herself.

The covered employee or other guardian has the right to elect Continuation Coverage for the child if the child satisfies the other applicable Plan eligibility requirements. The covered employee or a family member must notify the Plan Administrator within 31 days of the date of birth, adoption, or placement for adoption in order to enroll the child, and Continuation Coverage will last as long as it lasts for the other covered family members of the employee.

If the covered employee or family member fails to notify the Plan Administrator timely, then the option to elect COBRA Coverage for the child will NOT be offered.

Note: The newborn or adoptee may be eligible for coverage under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) even if he or she is not a Qualified Beneficiary for purposes of COBRA.

OPEN ENROLLMENT - COBRA participants are offered the same rights as similarly situated active employees during open enrollment. They may change plans and add/delete eligible dependents. Although part of the family unit, dependents (other than newborn children and adopted children of the employee) added during open enrollment will not have the same COBRA rights as the initial qualified beneficiaries. The company's open enrollment may vary from year to year so feel free to contact the Plan Administrator for further information on open enrollment.

Conversion to an Individual Policy

Upon termination of the maximum Continuation Coverage period, you and any covered dependents will have the right to convert your coverage to an individual policy if one is available through your Plan. You will be notified of this right within 180 days prior to the end of your COBRA Coverage maximum period.

Women's Health and Cancer Rights Act (WHCRA)

The Women's Health and Cancer Rights Act (WHCRA) includes protections for individuals who elect breast reconstruction in connection with a mastectomy. WHCRA provides that group health plans and health insurance issuers that provide coverage for medical and surgical benefits with respect to mastectomies must also cover certain post-mastectomy benefits, including reconstructive surgery and the treatment of complications (such as lymphedema).

Extension under California Law – Assembly Bill 1401

Effective September 1, 2003, all health plans must offer individuals who have exhausted their initial 18 months of Continuation Coverage the ability to extend the coverage to up to 36 months. To obtain the extended coverage, you must notify the health plan in writing no later than 30 days before the end of the initial 18-month COBRA period.

TRADE ACT OF 2002 – On August 6, 2002, the Trade Act of 2002 was signed into law expanding the benefits available to workers displaced by import competition or shifts of production to other countries. The Trade Act of 1974 initially offered benefits (known as “trade adjustment assistance”) which expired September 30, 2001. The Trade Act of 2002 extended this period and offers qualified workers a tax credit of up to 65% of COBRA health insurance premiums for both them and their family.

To be eligible for the tax credit, you must be currently receiving trade adjustment assistance or considered an “eligible Pension Benefit Guaranty Corporation (PBGC) pension recipient,” paying premiums for qualified health insurance, not receiving other coverage and not in prison. The law also creates a second “election period” for individuals not electing COBRA coverage upon their loss of employment if they are within the six months immediately after their group health plan coverage ended. If you have questions about these new tax provisions, you may call the Health Coverage Tax Credit Customer Contact Center toll-free at 1-866-628-4282. TTD/TTY callers may call toll-free at 1-866-626-4282. More information about the Trade Act is also available at www.doleta.gov/tradeact/2002act_index.asp.

Notice of Address or Status Changes to Plan Administrator

The Plan Administrator sends COBRA notices to your last known address of record with the employer. The address for a covered employee's spouse/registered domestic partner or child(ren) shall be the employee's address unless the Plan Administrator is notified in writing of a different address. If you or your spouse/registered domestic partner's or dependent's address changes, you must promptly notify the Plan Administrator in writing (the Plan Administrator needs up-to-date addresses in order to mail important COBRA and other information) otherwise the Plan Administrator shall use your last known address. Also, if your marital status changes, registered domestic partnership dissolves, or if a dependent ceases to be a dependent eligible for coverage under the Plan(s)'s terms, the Plan Administrator must promptly be notified in writing (such notification is necessary to protect COBRA rights for your spouse/registered domestic partner, and dependent child[ren]).

You must notify the Plan Administrator about address changes, and new marital/registered domestic partnership status and changes in the status of your dependents.

Only one notice is being provided to all plan participants at this time if, based upon the information provided to the County, all plan participants reside at the same address. However, continuation coverage rights apply individually to you (the employees), a covered spouse/registered domestic partner, and/or covered dependent children.. Should you add additional dependent children in the future, initial notice to the covered employee and spouse/registered domestic partner will be deemed notification to the newly covered dependent.

Plan Administrator

The County of San Bernardino is the Plan Administrator for all group medical care plans. All notices and other communication regarding the Plan , and/or regarding COBRA and HIPAA must be directed to:

County of San Bernardino
Human Resources Department
Employee Benefits and Services Division
157 West Fifth Street, First Floor
San Bernardino, CA 92415-0440
Telephone Number: (909) 387-5552

For Questions or More Information

If you (the employee) or any eligible dependents have questions about this notice of COBRA rights, please contact the Plan Administrator. Also, please contact the Plan Administrator if you wish to receive the most recent copy of the Plan's Summary Plan Description, which contains important information about Plan benefits, eligibility, exclusions and limitations. Remember, this notice is a summary of your potential future continuation coverage options only and not a description of your actual health plan or full COBRA rights. Should you have any continuation coverage questions regarding the information contained in this or any future notice, you should contact the parties listed above. For more information about your rights, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area. Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's web site at www.dol.gov/ebsa.

This Initial Notice is not intended to give greater rights than allowed under COBRA. If there is a conflict or ambiguity between the information in this notice and any other COBRA notice you receive from an insurance carrier, this notice shall prevail.