



The Vita Viewpoint

Important Information for Decision Makers

DOL Releases New COBRA Regulations On COBRA Notification Requirements

Introduction

- On May 28, 2003, the Department of Labor released proposed regulations on the COBRA Notification Requirements.
- The DOL release outlined new requirements and provided new guidance on six separate notifications required:
 1. General Notice (often referred to as the COBRA Initial Notice)
 2. Employer Notice to Plan Administrator
 3. Employee Notice to Employer (divorce, child eligibility, disability or subsequent qualifying event)
 4. Election Notice
 5. Termination of COBRA Notice (New notification requirement)
 6. Determination of No COBRA Coverage Availability (New notification requirement)
- The regulations are effective on first day of the first plan year on or after January 1, 2004. The DOL has requested comments on these proposed regulations and it is likely that some additional modifications will be made in the interim.

Notice #1: General Notice (Initial Notice)

- The new rules indicate the Initial Notice to newly covered plan participants would be furnished to qualified individuals within 90 days after coverage begins. *This is a change from the current requirement that notice be provided on or before the effective date of coverage.*
- Plans could satisfy this notice requirement by including the required information in the summary plan description (SPD) and furnishing the document within the 90-day time limit. *This is one of the most significant developments in the regulations, but still leaves unaddressed the COBRA requirement of notifying spouses and other covered dependents.*

Notice #2: Employer Notice to Plan Administrator

- In most cases, this is an internal notification when the Employer and the Plan Administrator are the same. The proposed regulations clarify the 30 day timing requirement and content requirements for this notice process.

Notice #3: Employee/Family Member Notice to Employer

- This applies in the case of divorce, child eligibility change, disability or subsequent qualifying event when the employee or Qualified Beneficiary must notify the Employer of such a change.
- The proposed regulations clarify the content and timing of this notice. The proposal would require plans to have reasonable procedures for requiring employees and their families to give this notice and for setting time limits as to when it must be given. Plans would be required to accept notices that meet the minimum content requirements of the proposal.

Notice #4: Election Notice

- The Election Notice is required to contain all of the information needed for an individual to decide whether to elect COBRA coverage.
- The Election Notice would have to describe available health plan options, premium payment requirements, the consequences of failing to elect COBRA, and how COBRA coverage could be extended due to disability or a subsequent qualifying event.
- A Model Election Notice is provided in the proposed regulations.

Notice #5: Termination of COBRA Notice

- The proposed regulations would require plans to notify individuals when their COBRA coverage is terminated earlier than the full time period for which COBRA must be made available. For example, for non-payment of premium or upon termination of group coverage.

Notice #6: Determination of No COBRA Coverage Availability Notice

- Under the proposed regulations, after receiving a notice of Qualifying Event from an employee or family member, plans would be required to notify individuals whenever a plan determines that an individual is not eligible for COBRA. For example, when notification is received outside the required time period.

Vita COBRA Administration System in Full Compliance!

- Vita has already reviewed the regulations in detail.
- Vita's current Election Materials and COBRA Rights and Rules booklet are already compliant with the revised model election notices provided in the Proposed Regulations.
- Vita's full service Employee Benefits clients already have Summary Plan Descriptions with COBRA disclosure language which satisfies the new initial notice requirement.
- The Vita COBRA Administration team will be providing feedback to the DOL on the proposed regulations and will continue to keep you apprised of any further modifications.
- Vita will work with each of our employer clients to implement any other required procedural changes to comply with the proposed regulations.

For questions or additional information, please contact Vita Benefits Group at (650) 968-8811.