

Report on COBRA for Representative Fontana
 By Joshua G. Berman

What is COBRA?

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) is a federal law (PL 99-272) that allows employees who experience a qualifying event (see below) to continue purchasing their employer's group health coverage at up to 102% of the cost (100% of the cost plus a 2% administrative fee) for a specified maximum amount of time between eighteen and thirty-six months depending on the qualifying event. This applies to employers with twenty or more employees. A table of qualifying events, who is eligible, and the maximum amount of time permitted by federal law is listed below:

QUALIFYING EVENT	QUALIFIED BENEFICIARIES	MAXIMUM PERIOD OF CONTINUATION COVERAGE
Termination (for reasons other than gross misconduct) or reduction in hours of employment	Employee Spouse Dependent Child	18 Months
Employee enrollment in Medicare	Spouse Dependent Child	36 Months
Divorce or legal separation	Spouse Dependent Child	36 Months
Death of employee	Spouse Dependent Child	36 Months
Loss of "dependent child" status under the plan	Dependent Child	36 Months

An employee who is terminated and disabled may apply for an eleven month extension, totaling twenty-nine months. An employee who experiences a second qualifying event may apply for an eighteen month extension, totaling thirty-six months.

State laws may extend the maximum period of continuation coverage.

Extending coverage: New York and other states

Currently, Connecticut's "mini-COBRA" law mirrors the federal law in terms of the maximum period of continuation coverage; it does, however, allow employers with less than twenty employees to participate.

80% of states (including all of New England, New York, and New Jersey) have a similar provision as Connecticut to extend coverage to employers with less than twenty employees. The amount of time varies from state to state.

In 2009, New York passed into law an amendment (Chapter 236) to their "mini-COBRA" law to extend the maximum period of continuation coverage to thirty-six months, regardless of disability or qualifying event. The amendment repealed the language regarding extensions for disability and for second qualifying events as they no longer apply. Employees are still required to pay 102% of the cost of the group rate.

Cost

There is no additional cost to employers (assuming there are no violations to COBRA committed; violations carry penalty fees). Employees pay to the insurance company the full cost of the group rate, which may be higher than what used to be deducted from their paycheck for health insurance as some employers contribute to the cost of the group rate. Employees seeing COBRA extension also pay up to a 2% administrative fee to the insurance company. Employees who seek the disability extension may be required to pay up to 150% under federal COBRA (most state "mini-COBRA" laws put a limit on the disability fee, often capping it at 2%. New York eliminated this clause when all extensions were repealed). There is no direct cost to the state or to the insurance companies (other than providing insurance).

Based on available information, there is no provision allowing states to increase the administrative fee the employees pay. There is also no available information on whether or not the 2% administrative fee is adequate for insurance companies.

A public hearing will be necessary to obtain further information from the insurance industry.