

COBRA BASICS & UPDATES

COBRA Basics & UPDATES due to Billing
Services COBRA Administration - for
Employers that Offer GMEBS Health Plans

DISCLAIMER

This Training Session is for informational purposes only, and is not legal advice or a substitute for legal advice. It is designed only for employers that offer the Health Plan administered by the Georgia Municipal Association on behalf of the Georgia Municipal Employees Benefit System. It contains information that is not applicable to other employers. This Training Session reflects the presenter's understanding of COBRA law on April 4, 2023.

This Training Session is not an official document of the Health Plan. Only the official Health Plan documents establish the terms of the Health Plan.

Assumptions

- Training is designed for employers that offer health plans administered by GMA
- Training does NOT address COBRA rights for individuals covered as retirees or dependents of retirees
 - All retiree coverage administered by GMA ends at age 65 and requires the retiree to waive COBRA rights, but the retiree's dependents may elect COBRA coverage. This is beyond the scope of today's presentation.

Agenda

- Meet the Players; Questions we will Answer
- The Basics
 - Why is it important? COBRA law and goals
 - Which employers must comply? Which plans?
 - Who gets COBRA coverage? How long does it last?
- Who does what?
 - GMA Life & Health
 - Employers
 - Employees/Former Employees/Qualified Beneficiaries
 - Billing Services (COBRA Administrator)

Meet the Players

- Employee Marigold works for Tree City as Head of Parks and Recreation.
 - As Head of Parks and Recreation, she is expected to work at least 30 hours of service per week. This position is expected to last more than 48 weeks. Therefore, she is eligible for coverage under the City's health plan administered by GMA.
 - Marigold is married to Leaf and has a 25 year old daughter Vine, and 10 year old step-daughter Sprig.
 - Marigold, Leaf, Vine, and Sprig are enrolled in the Tree City Health Plan administered by GMA.
- Ben Contact is the Head of HR for Tree City and is the primary benefits contact for the health and dental plans administered by GMA. Tree City offers no other health plans.
- Glinda Mary-Ann ("GMA") is a GMA Life & Health representative.

Questions We Will Be Able to Answer . . .

What Happens Under COBRA?

- If Marigold retires or resigns?
- If Marigold is involuntarily terminated from employment with Tree City?
- If Tree City reassigns Marigold to a position as a part-time head of community gardens (20 Hours of Service per week?)
- If Marigold fails to come back from FMLA leave?

- While Marigold is employed as Head of Parks and Rec . . .
 - Vine turns age 26?
 - Marigold and Leaf divorce?
 - Marigold drops coverage for Leaf and Sprig during open enrollment because their divorce will be final early the next year?
 - Marigold dies?

The Basics

NOTE: When you have a question about COBRA, review the Benefits Booklet's COBRA Continuation Coverage Section. Qualified beneficiaries and their covered dependents should contact Billing Services with questions about COBRA and any communications from Billing Services.

Why is COBRA Important?

- Established in 1985, COBRA provides an option for employees and dependents losing eligibility for employer-sponsored group health coverage to extend coverage under their current plans temporarily.
- It must be offered to all employees or dependents who qualify for it “qualifying beneficiaries.”
- Failure to comply with COBRA rules can result in lawsuits against the employer, adverse selection, exposure to health claims, and bad press. Penalties apply only to private employers.
- Once an employee or dependent elects COBRA coverage, the employer’s obligation to assist in the administration of COBRA does not end until the COBRA coverage is exhausted.

What is Adverse Selection?

- Adverse selection occurs when individuals purchase health coverage because the cost of medical claims outweighs the cost of known premiums
- COBRA premiums are expensive, so only individuals who expect to have (or know they have) medical claims that are higher than the premiums will elect COBRA coverage
- ***Terminating Active coverage ASAP when enrollee loses eligibility limits city's exposure, because the city is responsible for benefit payments that exceed premiums paid for an ineligible individual, and immediate termination starts the COBRA election deadline and premium payment deadline***
- Terminating COBRA immediately due to failure to pay premiums on time limits exposure

COBRA Law

- COBRA requires employers that sponsor group health plans* to permit certain individuals - “qualified beneficiaries” - to continue their coverage under group health plans under some circumstances.
- For governmental plans, the COBRA rules are set forth in the Public Health Service Act and in IRS Regulations.
- * employers with 20 or more employees

20 Employee Rule Does NOT APPLY to GMEBS Plans

- Employers that offer health, dental, or vision plans administered by GMA must offer COBRA for those plans, even if they don't have 20 or more employees.

COBRA Goal

- Goal is for certain employees and their spouses and dependents to temporarily continue health coverage at group rates when coverage would otherwise end.

Which Group Health Plans?

- All of the employer's "group health plans" are subject to COBRA, including:
 - major medical plans;
 - dental plans;
 - some wellness programs, employee assistance programs and discounted medical services;
 - Health flexible spending account plans (if account underspent at time of Qualifying Event);
 - Health reimbursement arrangements;
 - vision plans, cancer policies, prescription drug plans
- Ask your city attorney or a benefits attorney about COBRA obligations for plans that are NOT administered by GMA

Who Can Have COBRA Coverage?

- COBRA “qualified beneficiaries” are allowed to have COBRA coverage. Qualified beneficiaries include current and former employees, their spouses, and their dependents enrolled in group health coverage if a “qualifying event” cause them to lose regular eligibility for the coverage.
- A child of the covered employee who is born or placed for adoption while the employee is enrolled in COBRA coverage is also a “qualified beneficiary.”

Qualifying Events

- If one of the “qualifying events” would result in loss of coverage under the plan, the qualified beneficiary is permitted to elect to continue the same coverage in which enrolled on the date of the event.

Qualifying Event – Covered Employee

- Termination of Employment (voluntary or involuntary*)
- Change from a qualifying position (generally requires 30 hours per week, expected to last 48 weeks) to a non-qualifying position
- End of a qualified Family Medical Leave (FMLA)
- Death
- *Exception for termination due to gross misconduct but BIG litigation risk
- Employer Benefits Contact notifies GMA with Benefits Change or Termination Form - self service or upload

Qualifying Event – Dependent Spouse

- Covered spouse of employee no longer an eligible dependent due to
 - Death of the covered employee
 - Divorce from covered employee
 - Termination of coverage based on “anticipation of divorce” – later divorce will make this a QE
- “Spouse” includes lawfully married same-sex spouse
- QB notifies GMA with “Notice of Qualifying Event” Form - if Employer is aware, must notify GMA through self-service or benefit change form.

Qualifying Event – Dependent Child

- A covered child is no longer an eligible dependent under the terms of the Plan
- Could be due to
 - Parent's divorce
 - Reaching age 26 or no longer a "child" due to end of guardianship/foster care
 - Termination of coverage due to anticipation of divorce from parent – later divorce will make this a QE
 - No longer disabled (if disability permitted remaining eligible after age 26)
 - QB notifies GMA with “Notice of Qualifying Event” Form - if Employer is aware, must notify GMA through self-service or benefits change form

How Long Does COBRA Coverage Last?

- COBRA coverage continues until the earlier of a terminating event or the maximum period of coverage.



Terminating Events – End of Maximum Period

- General:
 - **18 months**, starting from the date of the Qualifying Event, for loss of employee eligibility or dependent eligibility due to **termination of employment** or reduction of hours.
 - BUT 36 months for spouse and dependent children of employee if employee was entitled to Medicare during the 18-month period before loss of eligibility due to end or employment/reduction in hours (QB notifies of Medicare entitlement in COBRA Election Form)
 - **36 months**, starting from the date of the Qualifying Event, for **loss of dependent eligibility due to death of employee, divorce of employee, termination in anticipation of divorce (after divorce occurs, starts on date of divorce), loss of “dependent child” status.**
 - Maximum Period is included in the COBRA Election Notice and COBRA Election Form

Secondary Qualifying Event Extension

- 18-month maximum extends to 36 for the covered dependent if, while on COBRA, the covered employee dies or divorces; covered employee becomes Medicare eligible or Loss of “dependent child” status
- QB contacts Billing Services to notify of Second Qualifying Event or QB determines second qualifying event due to age
- Upon learning of Second Qualifying Event, Billing Services sends COBRA Enrollment Notice advising QB that he or she must independently elect COBRA that lasts 36 months from original start date to continue COBRA or COBRA coverage will end.

Disability Extension

- 18-month maximum coverage is extended to 29 months if a qualified beneficiary is disabled (as determined by the Social Security Administration) on any day during the first 60 days of COBRA coverage and the QB notifies Billing Services within 60 days after the determination of disability and before the end of the original 18-month maximum coverage period.
- Failure to notify Billing Services by deadline = no extension.

Early Termination Events

- COBRA coverage ends early if:
- The qualified beneficiary does not pay the required COBRA premium to Billing Services on time (subject to grace periods and other special rules);
- The qualified beneficiary becomes entitled to Medicare benefits after electing COBRA coverage (Billing Services automatically terminates);
- The qualified beneficiary becomes covered by another group health plan after electing COBRA coverage.

Who Does What?

Participation Agreement

- “The Participating Employer will distribute, collect, keep, and furnish to the Program Administrator, employees, and other individuals such notification(s), forms, and other information as necessary for the purpose of notifying eligible employees and dependents of their rights to continued health and/or dental coverage under COBRA and for purposes of facilitating COBRA coverage elections, in accordance with any applicable Rules or procedures established by the Trustees or the Program Administrator.”

Participation Agreement, cont.

- Participating Employer must . . .
 - notify the Program Administrator in writing immediately upon and no later than 14 days after the termination of employment of any covered employee participating in any health or dental Plan under the Program (and indicate whether the employee was terminated for gross misconduct);
 - notify the Program Administrator in writing immediately upon and no later than 14 days after a reduction in a employee's work hours which makes the employee ineligible to participate in a health or dental Plan under the Program;
 - notify the Program Administrator in writing upon an employee's failure to return to return to employment following FMLA leave.
- Participating Employer notifies GMA by sending the Benefits Change Form or the Benefits Termination Form or using self-service. Once GMA approves, Billing Services is notified. ***Can be VERY COSTLY if Participating Employer provides late notice and allows coverage of ineligible individuals!***

Participation Agreement, cont.

Participating Employer must . . .

- "Collect monthly COBRA premiums from COBRA-eligible employees and dependents;" **CHANGE - FOR MAY, 2023 COVERAGE AND GOING FORWARD, COBRA ENROLLEES PAY PREMIUMS TO BILLING SERVICES. DO NOT ACCEPT PREMIUM PAYMENTS FOR MAY 2023 COVERAGE AND AFTER.**
- "Promptly forward the COBRA premiums to the Program Administrator"- **CHANGE - ENDS WITH APRIL 2023 COVERAGE.**
- "Promptly forward to the Program Administrator any notices, forms, or information received from employees (or their dependents) which may affect COBRA rights or eligibility (e.g., COBRA election forms, employee notice of divorce, notice of loss of dependent status, notice of employee or dependent change of address, notice of failure to timely pay COBRA premium)." **CONTINUE, except that *COBRA election forms with a COBRA start date of May 1, 2023 and later must be submitted to Billing Services and Billing Services handles failure to timely pay COBRA premiums.***

Participation Agreement, cont.

- This training describes GMA's procedures for COBRA administration
- GMA sends the initial COBRA notice to new active enrollees and qualified beneficiaries directly; GMA sends Unavailability of COBRA notice if deadline for QB to send notification of qualifying event is missed. Billing Services sends all other COBRA notices.
- Participating Employers should not send COBRA notices related to the GMEBS Health Plans

Participation Agreement, cont.

- "The Participating Employer acknowledges and agrees that ***GMEBS and the Program Administrator will not be liable for any unpaid or uncovered claims for persons who are eligible for COBRA but who are not timely or properly afforded COBRA coverage due to the Participating Employer's failure to provide timely or accurate COBRA notification(s), forms or other information*** in accordance with this subsection or any COBRA administration Rules and/or procedures established by the Trustees or the Program Administrator."
- ***Employer providing late notification of termination/reduction in hours or death may need to pay the Plan the amount by which benefits paid exceed premiums collected. This can be VERY COSTLY!***

Notice Requirements – Notifications to Qualified Beneficiaries (GMA & Billing Services Handle)



Required Notices to Qualified Beneficiaries (for Governmental Plans)

- **Initial Notice** of COBRA Rights and Responsibilities (sent by GMA after enrollment)
- **Notice of Unavailability of COBRA** (by GMA if QB sends notice of QE but no COBRA rights)
- **COBRA Election Notice and COBRA Election Form** (sent by Billing Services after GMA terminates due to qualifying event)
- **Early Termination of COBRA Notice** (sent by Billing Services if COBRA is terminated before maximum time.)

Employer Must Notify GMA of Termination
Due to Qualifying Event (Death, End of
Employment, Reduction in Hours resulting
in loss of eligibility) within 14 Days



Employer has 14 Days to Notify GMA of Termination Due to Qualifying Event

- Must notify GMA within 14 days of death or termination of employment/change to position that includes reduction in hours
- Must advise GMA if aware of a different address for any dependent
- Use Benefit Change Form or Benefit Termination Form or self-service.

Required Notices FROM Qualified Beneficiary to GMA or Billing Services

- Notice to GMA of Qualifying Event (Divorce, Child Loss of Dependent Child Status) must be sent no later than 60 days after the event. Employer must also notify GMA ASAP if aware.
- Notice of Second Qualifying Event to Billing Services
- Notice of Disability to Billing Services
- Notice of Enrollment in Other Group Health Coverage, cessation of disability to Billing Services

COBRA Election Notice and Election Form – Billing Services Sends to Qualified Beneficiaries

**SPECIAL
NOTICE**



- Billing Services must send COBRA election notice to QBs within 30 days of receiving notification of Termination Due to Qualifying Event.
- Billing Services will NOT copy Benefits Contact.

Qualified Beneficiary Sends Election to Billing Services

- The qualified beneficiary must send the COBRA election to Billing Services within 60 days of the date on the election notice
- After the deadline passes, the qualified beneficiary cannot elect COBRA

Paying the COBRA Premium: Deadlines and Grace Periods

- Initial Premium (paid to Billing Services) is due 45 days after date election form is postmarked.
- For subsequent premiums, due date and 30 day grace period are set forth in the COBRA Election Notice.
- Billing Services will terminate COBRA coverage if COBRA enrollees do not pay a required premium on time.

Premiums after April, 2023 coverage

- Employer has no role in COBRA premium collection after payment for April, 2023 coverage.
- Employer should return any COBRA premiums submitted for coverage after April, 2023 coverage.

Paying for COBRA Coverage Premiums

- If a Health care provider inquires about coverage during initial premium payment period and grace periods – inform provider that timely payment of COBRA premium to Billing Services is required to maintain coverage and refer caller to GMA.
- Persons other than qualified beneficiary may pay COBRA premiums (ex. Health care providers) to Billing Services.

Medicare and COBRA

- Becoming entitled to Medicare AFTER electing COBRA will cause COBRA to end early for the person who becomes entitled to Medicare and will create a second qualifying event for other QBs
- If already entitled to Medicare when Qualifying Event occurs, can elect COBRA
- If an employee ends employment or changes to a non-qualifying position (“reduction in hours”) AND became entitled to Medicare during the previous 18 months, the employee gets 18 months of COBRA coverage starting from the end of employment and the spouse and dependent children get 36 months of COBRA coverage starting from the date of Medicare entitlement

Recap

- Employer notifies GMA of Termination Due to Qualifying Event (death, termination of employment, reduction in hours): GMA ends coverage, updates invoice, and Billing Services sends COBRA Election Package to QBs
- QB sends Notice of Qualifying Event to GMA (divorce or loss of dependent child status) or GMA system shows attainment of age 26: GMA ends coverage, Billing Services sends COBRA Election Package to QBs
- QB sends COBRA Election Form to Billing Services by deadline and pays initial COBRA premium by deadline. Billing Services starts COBRA coverage. Employer invoice will not list COBRA enrollees.

Recap

- QB notifies Billing Services of second qualifying event and provides documentation: Billing Services sends new COBRA enrollment form for dependents to re-enroll and extend coverage to 36 months;
- QB notifies Billing Services of disability and provides documentation: Billing Services extends COBRA period if eligible or sends denial;
- System alerts of early termination event or QB notifies Billing Services of early termination event: Billing Services terminates COBRA, sends COBRA termination notice.
- COBRA maximum period ends, Billing Services terminates coverage and sends COBRA termination notice.

What Happens Under COBRA – 18 Month Employment Qualifying Events? ANSWERS

- Employment Qualifying Events trigger right to 18 months of COBRA coverage for Marigold and her enrolled dependents.
 - Retires, resigns, involuntarily terminated, failure to return from FMLA
 - New position with hours below 30 Hours of Service per week

- Ben Contact must use self-service or complete the Termination Form (for termination of employment, failure to return from FMLA) OR the Benefit Change Form (if Marigold is still employed but in a non-qualifying position) to notify GMA ***no later than 14 days after the event. Date of event must be reported.***

- GMA terminates coverage for Marigold and her dependents.
- Billing Services sends COBRA Election Notice and COBRA Election Form to Marigold and dependents at their current address.

What Happens Under COBRA – 36 Month Dependent Qualifying Events? ANSWERS

- While Marigold is employed as Head of Parks and Rec . . .
 - Marigold and Leaf divorce?

- Leaf or Marigold must send “Notice of Qualifying Event” Form to GMA no later than 60 days after divorce is final or no rights to COBRA.

If Tree City knows of divorce, Ben Contact must notify GMA using Benefit Change form or self-service ASAP.

- GMA will terminate coverage for everyone made ineligible due to divorce (Leaf and Marigold’s step-daughter Sprig)
- If notified by deadline, Billing Services sends COBRA election notice and form to Leaf and Sprig at address on file.

What Happens Under COBRA – 36 Month QE for Dependents Dropped in Anticipation of Divorce?

ANSWERS

- While Marigold is employed as Head of Parks and Rec. . .
 - Marigold drops to single coverage due to upcoming divorce
 - Might be mid-year or during open enrollment

- Marigold or Leaf or Sprig’s representative must send “Notice of Qualifying Event Form” and supporting documentation to GMA no later than 60 days after divorce is final.

- If GMA agrees that coverage was dropped in anticipation of divorce, GMA will advise Billing Services to send COBRA election notice and COBRA election form to Leaf and Sprig at address on file.
- COBRA period is based on date of divorce.

Second Qualifying Event, Disability Extension - What Happens Under COBRA? Answers

- If Marigold elects and pays for COBRA coverage for all family members due to termination of employment or reduction in hours and
 - Vine turns age 26?
 - Vine must re-enroll independently in COBRA and can extend to 36 months
 - Marigold and Leaf divorce?
 - Leaf and Sprig must re-enroll independently in COBRA and can extend to 36 months. Marigold and Vine still have 18 months COBRA., but premiums will reduce. (Because divorce would not have caused term. of coverage for Vine, it is not a second qualifying event)

- Marigold dies?
 - Leaf, Sprig, and Vine must re-enroll in COBRA and COBRA extends to 36 months
- Marigold sends documentation to Billing Services from the Social Security Administration that she was disabled during the first 60 days of COBRA coverage?
 - Billing Services extends to 29 months for ALL COBRA enrollees

What Happens Under COBRA? – Early Termination Answers

- If Marigold elects and pays for COBRA coverage for all family members due to termination of employment or reduction in hours and
 - Starts a new job as a consultant to the Parks and Recreation TV show and enrolls in her new employer's health plan?
 - Marigold notifies Billing Services and Billing Services terminates Marigold's COBRA coverage and sends a COBRA enrollment notice and form for Leaf to complete in order to continue COBRA for himself, Vine, and Sprig.
 - Marigold becomes entitled to Medicare after starting COBRA coverage?
 - Early termination for Marigold only. Leaf, Vine, and Sprig must re-enroll in COBRA and extends to 36 months.
 - Leaf, Vine and Sprig enroll in Leaf's health plan after starting COBRA coverage?
 - Marigold notifies Billing Services and Billing Services sends a notice showing removal of dependents' coverage.

Questions?

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