



COBRA

NEW JERSEY

Comparison of Federal and New Jersey Continuation Laws

	FEDERAL (COBRA)	NEW JERSEY
<p>Covered Employers and Plan Coverage</p>	<p>Group health plans maintained by private-sector employers with 20 or more employees, employee organizations, or state or local governments.</p> <p>Coverage must be identical to that available to similarly situated beneficiaries who are not receiving COBRA coverage under the plan (generally, the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage).</p>	<p>Small employer (2-50 eligible employees) health benefits plans must provide continuation coverage to eligible employees and their spouses/dependents.</p> <p>Additionally, certain dependents are eligible for continued coverage up to age 31.</p> <p>Coverage must be identical to the coverage provided under the policy or contract to similarly situated qualified beneficiaries.</p>
<p>Qualified Beneficiaries (Employee / Dependents)</p>	<p>An employee, spouse or dependent child covered by a group health plan on the day before a qualifying event.</p> <p>In certain cases, a retired employee, the retired employee's spouse and the retired employee's dependent children may be qualified beneficiaries.</p> <p>In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary.</p> <p>Agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.</p>	<p>Any person covered under a small employer group policy who has been continuously insured under the group policy during the entire 3-month period prior to a qualifying event.</p> <p>“Spouse” includes a domestic partner if the employer elected to include coverage for domestic partners, and also includes civil union partners.</p> <p>Continuation coverage is also available for newly acquired dependents where birth, adoption, marriage, domestic partnership or civil union occurs after the qualifying event. However, state continuation of coverage is NOT available for existing dependents who were not on the plan.</p> <p>A dependent may be able to continue coverage up to age 31 if the dependent:</p> <ul style="list-style-type: none"> • Is unmarried; • Has no dependents of his or her own;

		<ul style="list-style-type: none"> • Is a resident of New Jersey and/or a full-time student; and • Is not eligible for any other health benefit plans.
Continuation Period	<p>18 months - COBRA beneficiaries generally are eligible for group coverage during a maximum of 18 months for qualifying events due to employment termination or reduction of hours of work.</p> <p>29 months - Disability can extend the 18-month period of continuation coverage for a qualifying event that is a termination of employment or reduction of hours. If certain requirements are met, the entire family qualifies for an additional 11 months of COBRA continuation coverage. Plans can charge 150% of the premium cost for the extended period of coverage.</p> <p>36 months - Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.</p> <p>36 months - Under COBRA, participants, covered spouses and dependent children may continue their plan coverage when they would otherwise lose coverage due to divorce (or legal separation) for a maximum of 36 months.</p>	<p>18 months – Termination or reduction in hours</p> <p>29 months – Employee who is disabled at the time of termination or during the first 60 days of continuation coverage</p> <p>36 months – Spouse or dependent child who would lose coverage due to death of employee, divorce of employee from spouse or end of dependent child status</p>
Qualifying Events	<p>Qualifying Events for Employees:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of employment for reasons other than gross misconduct (18 months) • Reduction in the number of hours of employment (18 months) <p>Qualifying Events for Spouses:</p> <ul style="list-style-type: none"> • Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months) • Reduction in the hours worked by the covered employee (18 months) • Covered employee's becoming entitled to Medicare (36 months) • Divorce or legal separation of the covered employee (36 months) • Death of the covered employee (36 months) 	<p>Qualifying Events for Employees:</p> <ul style="list-style-type: none"> • Termination of employment for a reason other than for cause (18 months, except 29 months if he or she is disabled within 60 days after termination) • Reduction in employee's hours of employment to less than 25 hours (18 months) <p>Qualifying Events for Spouses:</p> <ul style="list-style-type: none"> • Termination of covered employee's employment for reason other than for cause (18 months) • Reduction in covered employee's hours of employment to less than 25 (18 months) • Death of covered employee (36 months)

	<p>Qualifying Events for Dependent Children:</p> <ul style="list-style-type: none"> • Loss of dependent child status under the plan rules (36 months) • Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct (18 months) • Reduction in the hours worked by the covered employee (18 months) • Covered employee's becoming entitled to Medicare (36 months) • Divorce or legal separation of the covered employee (36 months) • Death of the covered employee (36 months) 	<ul style="list-style-type: none"> • Divorce of employee from spouse, including the dissolution of a civil union (36 months) <p>Qualifying Events for Dependent Children:</p> <ul style="list-style-type: none"> • Termination of covered employee's employment for reason other than for cause (18 months) • Reduction in covered employee's hours of employment to less than 25 (18 months) • Death of covered employee (36 months) • Divorce of employee from spouse (36 months) • Loss of dependent child status under the plan (36 months)
<p>Eligibility</p>	<p>To be eligible for COBRA coverage, must have been enrolled in employer's health plan when employed and health plan must continue to be in effect for active employees. COBRA continuation coverage is available upon the occurrence of a qualifying event that would, except for the COBRA continuation coverage, cause an individual to lose his or her health care coverage.</p>	<p>Any person covered under a small employer group policy who has a qualifying event.</p> <p>Continuation coverage is also available for newly acquired dependents where birth, adoption, marriage, domestic partnership or civil union occurs after the qualifying event. However, state continuation of coverage is NOT available for existing dependents who were not on the plan.</p> <p>A dependent may be able to continue coverage up to age 31 if the dependent:</p> <ul style="list-style-type: none"> • Is unmarried; • Has no dependents of his or her own; • Is a resident of New Jersey and/or a full-time student; and • Is not eligible for any other health benefit plans. <p>An employee or their spouse or dependents must make a written election for continued coverage within 30 days of a qualifying</p>

		<p>event. The first premium must be paid within 30 days of making a continuation election. An employer cannot require the first premium to be paid when the election is made.</p> <p>A dependent child who wants continuing coverage until the age of 31 must make a written election for continued coverage:</p> <ul style="list-style-type: none"> • Within 30 days prior to the termination of coverage at the specific age provided in the policy; • Within 30 days after meeting the requirements for dependent status as set forth in subsection a. of this section, when coverage for the dependent under the policy previously terminated; or • During an open enrollment period, as provided pursuant to the policy, if the dependent meets the requirements for dependent status under this law during the open enrollment period
<p>Notice Requirements</p>	<p>Health plan administrators must provide an initial general notice when group health coverage begins.</p> <p>When a qualifying event occurs, health plan administrators must provide an election notice regarding rights to COBRA continuation benefits to each qualifying beneficiary who loses plan coverage in connection with the qualifying event.</p> <p>Employers must notify their plan administrators within 30 days after an employee's termination or after a reduction in hours that causes an employee to lose health benefits.</p> <p>The plan administrator must provide notice to individual employees of their right to elect COBRA coverage (election notice) within 14 days after the administrator has received notice from the employer.</p> <p>Employee must respond to this notice and elect COBRA coverage by the 60th day after the written notice is sent or the day health care coverage ceased, whichever is later. Otherwise, employee will lose all rights to COBRA benefits.</p>	<p>Notice of continuation rights under the plan must be provided to employees in the certificate of coverage by the carrier, and by the small employer at the time of the qualifying event.</p> <p>The law is not specific on the notice requirement, but the New Jersey Small Employer Health Benefits Program Board (SEH Board) recommends that the following information be provided in writing to the employee:</p> <ul style="list-style-type: none"> • A statement that the employee may elect to continue under the group policy for up to 18 months from the qualifying event; • A statement that the employee has 30 days from the qualifying event to elect to the employer in writing to continue coverage; • A statement that the amount of

	<p>Spouses and dependent children covered under such health plan have independent rights to elect COBRA coverage upon employee's termination or reduction in hours.</p>	<p>premium to be paid and to whom the payment should be sent. The required premium payment shall not exceed 102% of the premium paid for similarly situated covered persons, or 150% for an employee that has been determined to have been disabled under the Social Security Act;</p> <ul style="list-style-type: none"> • The monthly premium due date; and • A statement that the first payment of premium is due from the continuee within 30 days of the employee's written election to continue coverage. <p>Notice of continuation rights up to the age of 31 under the plan must be provided to a dependent in the certificate of coverage by the carrier. An employer is not required to notify a spouse or dependent of continuation rights at the time of the qualifying event.</p>
<p>Termination of Coverage</p>	<p>Coverage begins on the date that coverage would otherwise have been lost by reason of a qualifying event and will end at the end of the maximum period. It may end earlier if:</p> <ul style="list-style-type: none"> • Premiums are not paid on a timely basis. • The employer ceases to maintain any group health plan. • After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of the beneficiary. However, if other group health coverage is obtained prior to the COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election. • After the COBRA election, a beneficiary becomes entitled to Medicare benefits. However, if Medicare is obtained prior to COBRA election, COBRA coverage may not be discontinued, even if the other coverage continues after the COBRA election. 	<p>Continuation coverage ends at the earlier of:</p> <ul style="list-style-type: none"> • End of maximum coverage period; • Date on which employer ceases to provide any health benefits plan to any employees; • Date on which coverage ceases due to the continuee's failure to timely pay premium; payments are considered timely if made within 30 days after the due date, or within any longer period that may be provided for by the policy or contract; • Date on which qualified beneficiary first becomes covered under any other health benefits plan which does not limit or exclude a preexisting condition, or, if a preexisting condition limitation is applicable, the date such limitation ends; or

		<ul style="list-style-type: none"> • Date on which qualified beneficiary is entitled to benefits under Medicare. <p>If the employer modifies coverage or moves to another plan, the continuee has the right to continue under the amended or replacement coverage for the balance of the continuation period, except that HMO carriers are not required to offer continuation of coverage to a continuee who lives, resides or works in an area outside of the carrier's approved service area.</p> <p>Continuation coverage for a dependent up to the age of 31 must be provided until the earlier of the following:</p> <ul style="list-style-type: none"> • Date on which the dependent is disqualified for dependent status (i.e., no longer under the age of 30; married; has dependents of his/her own; is not a state resident; is covered under any other plan); • Date on which coverage ceases due to the continuee's failure to timely pay premium. Payments are considered timely if made within 30 days after the due date, or within any longer period that may be provided for by the policy or contract; or • Date on which the policy under which coverage is provided to a dependent ceases to provide coverage to the insured.
<p>Conversion Rights</p>	<p>Group health plans maintained by private-sector employers with 20 or more employees, employee organizations, or state or local governments.</p> <p>Coverage must be identical to that available to similarly situated beneficiaries who are not receiving COBRA coverage under the plan (generally, the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage).</p>	<p>Conversion is available to the former spouse of a named subscriber under a group insurance contract where the former spouse is no longer entitled to coverage as an eligible dependent due to a divorce.</p> <p>Application for converted coverage must be made to the insurer by or on behalf of the former spouse no later than 31 days after the date group coverage terminated.</p>

Cost		<p>Employers may charge up to 102 percent of the premium for any period of continuation, except that an employer may charge up to 150 percent of the premium for months 19 through 29 if the employee is determined to have been disabled under the Social Security Act.</p> <p>For continuation coverage for dependents up to the age of 31, employers may charge up to 102 percent of the premium for any period of continuation.</p> <p>An employer is not required to pay the carrier for the continuee's coverage prior to receiving payment from the continuee.</p> <p>If the employer does not receive payment from the continuee before making payment to the carrier for the rest of the employer's group, the employer should advise the carrier that the continuee has not made payment by the due date. At that point, the continuee's coverage will be terminated.</p> <p>If payment is made by the continuee within the 30-day grace period, then the employer should pass along the payment to the carrier specifying that the payment is for the continuee and coverage will be reinstated for the continuee retroactively.</p>
Applicable Statutes	IRC § 4980B, ERISA §601 <i>et seq.</i>	New Jersey Stats. Annotated §§ 17B:27A-27; 17B:27-30.5; 17B:27-51.12
Government Agency Contact	Departments of Labor and Treasury (private sector plans) and Department of Health and Human Services (public sector plans). More information on COBRA coverage is available from the Department of Labor at: www.dol.gov/dol/topic/health-plans/cobra.htm .	Department of Banking and Insurance Office of Consumer Protection

This Chart is provided to you for general informational purposes only. It broadly summarizes state and federal statutes, but does not include references to other legal resources (e.g., supporting regulations or formal or informal opinions of state offices of commissioners of insurance) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.

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