



# COBRA South Carolina

## Comparison of Federal and South Carolina Continuation Laws

|   | FEDERAL (COBRA)   | SOUTH CAROLINA  |
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| <b>Covered Employers and Health Plans</b> | Group health plans (fully insured and self-insured) maintained by private-sector employers with <b>20 or more employees</b> . Most group health plans maintained by governmental employers are required to offer COBRA. However, group health plans maintained by churches are exempt from COBRA. | Group policies that provide hospital, surgical or major medical benefits (not including specific diseases or accidental injuries only) on an expense incurred basis must provide continuation coverage. Self-insured ERISA plans are not subject to state continuation coverage requirements.   |
| <b>Qualified Beneficiaries</b>            | An employee, spouse or dependent child covered by a group health plan on the day before a qualifying event. 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.                              | An employee or member who has been insured continuously under a group policy for <b>at least six months</b> and whose insurance has been terminated for any reason other than nonpayment of the required contribution. The following employees or members are not eligible for state continuation coverage: <ul style="list-style-type: none"> <li>• Individuals who are entitled to continue their coverage under federal law (COBRA) for a greater duration;</li> <li>• Individuals who are eligible for other group coverage that provides similar benefits; and</li> <li>• Individuals who are eligible for Medicare benefits.</li> </ul> |
| <b>Qualifying Events</b>                  | Events that trigger an obligation to offer COBRA coverage include: <ul style="list-style-type: none"> <li>• Termination of employment for</li> </ul>  | Group insurance terminated for any reason other than nonpayment of required contribution.   |



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|   | <p>reasons other than gross misconduct (all qualified beneficiaries);</p> <ul style="list-style-type: none"> <li>• Reduction in the number of hours of employment (all qualified beneficiaries);</li> <li>• Covered employee's becoming entitled to Medicare (spouse and dependent children);</li> <li>• Divorce or legal separation of the covered employee (spouse and dependent children);</li> <li>• Death of the covered employee (spouse and dependent children); and</li> <li>• Loss of dependent child status under the plan (dependent children).</li> </ul>   |   |
| <p><b>Maximum Continuation Period</b></p>   | <p>The maximum duration of COBRA coverage depends on the type of qualifying event, as follows:</p> <p><b>18 months</b> - Employment termination or reduction in hours of work</p> <p><b>29 months</b> - The Social Security Administration (SSA) determines the qualified beneficiary is disabled during the first 60 days of COBRA coverage. This 11-month extension applies to the qualified beneficiary with the disability and all of the qualified beneficiaries in the family.</p> <p><b>36 months</b> - Divorce or legal separation, employee's death, entitlement to Medicare or loss of dependent child status</p> <p><b>36 months</b> - After a qualifying event that is an employment termination or a reduction in hours of work, a second qualifying event occurs that is the death of the employee, the divorce or legal separation of the covered employee and spouse, Medicare entitlement (in certain circumstances) or loss of dependent child status under the plan.</p> | <p>Fractional policy month remaining at termination plus <b>six additional policy months</b>.</p>   |
| <p><b>Early Termination of Coverage</b></p> | <p>Coverage begins on the date that coverage would otherwise have been lost because of a qualifying event and will end at the end of the maximum period.</p>  | <p>Continuation coverage is subject to the group policy (or a successor policy) remaining in force and the employee paying the required premium for the</p> |

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|                                   | <p>It may end earlier if:</p> <ul style="list-style-type: none"> <li>• Premiums are not paid on a timely basis;</li> <li>• The employer ceases to maintain any group health plan;</li> <li>• 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; or</li> <li>• After the COBRA election, a beneficiary becomes entitled to Medicare benefits.</li> </ul>  | <p>coverage.</p>  |
| <p><b>Notice Requirements</b></p> | <p>Health plan administrators must provide an <b>initial general notice</b> when group health coverage begins. When a qualifying event occurs, health plan administrators must provide an <b>election notice</b> regarding rights to COBRA continuation benefits to each qualifying beneficiary who loses plan coverage in connection with the qualifying event.</p> <p>Qualified beneficiaries must respond to this notice and elect COBRA coverage by the <b>60th day</b> after the written notice is sent or the day health care coverage would end, whichever is later. Additional COBRA notice requirements apply under federal law.</p> | <p>A notification of the privilege to continue coverage after termination must be included in each certificate of coverage.</p> <p>Employers with insured group health plans must also clearly and meaningfully advise an employee upon termination of his or her right to continue coverage. Employers must also advise employees regarding premium amount and that payment is due before the policy month begins.</p> |
| <p><b>Premium Rules</b></p>       | <p>The maximum amount charged to qualified beneficiaries cannot exceed 102 percent of the plan’s total cost of coverage for similarly situated individuals. For qualified beneficiaries receiving the 11-month disability extension, the premium for those additional months may be increased to 150 percent of the plan's total cost of coverage.</p> <p>Plans must provide at least 45 days after the election for making an initial premium payment. The plan sponsor may establish due dates for later payments, but it must provide a minimum 30-day grace period for each payment.</p>  | <p>The premium for continuation coverage is the entire group premium, including any portion usually paid by the employer. Premiums must be paid before the date each month that the group policy month begins.</p>  |

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| <p><b>Applicable Statutes</b></p>       | <p>IRC § 4980B, ERISA §601 <i>et seq.</i>, 29 CFR §§ 2590.606-1 through 2590.606-4.</p>  | <p>South Carolina Code § 38-71-770</p>                        |
| <p><b>Government Agency Contact</b></p> | <p>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 <a href="#">Department of Labor</a>.</p> | <p><a href="#">South Carolina Department of Insurance</a></p> |