



# COMPLIANCE

## *ALERT!*

Wednesday, May 14, 2014

## Model COBRA Notices and Federal Exchange Special Enrollment Period Guidance

On May 2, 2014, the Department of Labor (DOL) issued revised model notices that may be utilized by employers to inform individuals of their eligibility to continue healthcare coverage through the [Consolidated Omnibus Budget Reconciliation Act](#) (COBRA). The updated notices provide more details regarding the options available to an individual when eligible for COBRA continuation coverage and that they may choose instead to purchase coverage through the public Health Insurance Marketplace (“federal Exchange”). Along with the model notices, the DOL released Frequently Asked Questions (FAQs) and proposed regulations to make future updates easier to the model COBRA notices. In addition, Centers for Medicare & Medicaid Services (CMS) issued a bulletin announcing a limited special enrollment period that is available for individuals currently enrolled in COBRA and providing guidance on the mid-year enrollment opportunities, and restrictions, for federal Exchange coverage. Following are links to the revised notices, regulations, and guidance with a summary of the highlights included below.

- [Model general notice \(initial COBRA rights notice\)](#)
- [Model COBRA election notice](#)
- [Frequently asked questions](#)
- [Proposed regulations](#)
- [CMS Bulletin on the special enrollment period opportunities](#)

### Model COBRA Notices

#### General Notice (Initial COBRA Rights Notice)

The general notice provides a summary of the continuation of coverage rights at time of commencement of active employer coverage under the plan and will now include basic information about the federal Exchange coverage options should the individual lose active employer coverage. The notice must be furnished to each covered employee (and their spouse if covered under the plan) not later than the earlier of (1) 90 days from the date on which the covered employee or

spouse first becomes covered under an employer group health plan or (2) the date on which the administrator is required to furnish an election notice to the employee or to his or her spouse or dependents. The new model general notice is available [here](#).

## COBRA Election Notice

The election notice is provided to an individual when active employer coverage is lost due to a COBRA qualifying event and describes their rights to COBRA continuation coverage along with instructions to elect coverage and applicable premiums rates. Revised in 2013 to include basic information about the federal Exchange, the updated notice will now include more details including enrollment opportunities and restrictions, potential availability of financial assistance, and factors to consider when choosing among coverage options. The COBRA election notice must be provided to the qualified beneficiaries within 14 days after the plan administrator receives notice that a qualifying event has occurred (44 days when the employer and plan administrator are the same). The new COBRA election notice is available [here](#).\*

*\*Please note, if you are a Trion COBRA client, you will be receiving an update shortly on the status of the notices.*

## Federal Exchange Special Enrollment Periods

The Department of Health & Human Services (HHS) published a bulletin regarding the special enrollment periods (SEPs) available to individuals seeking to enroll in the federal Exchange. The bulletin includes a new limited SEP that will be available through July 1, 2014 to individuals currently enrolled in COBRA coverage and provide them with the opportunity to enroll in a federal Exchange. The full bulletin is posted on the HHS website and available [here](#).

Regulations currently provide special enrollment periods for individuals to enroll in the federal Exchange and include (1) when an individual is initially eligible for COBRA due to a loss of other minimum essential coverage and (2) when an individual's COBRA coverage is exhausted. In addition, COBRA beneficiaries are able to enroll in the federal Exchange during the annual open enrollment period and if they are determined eligible for any other SEPs outside of the annual open enrollment period. In addition to the current available SEPs and due to concern that the prior model COBRA notices did not address sufficiently Exchange options for persons eligible for COBRA, HHS is providing an additional SEP for individuals currently enrolled in COBRA continuation coverage. This one-time limited SEP is available only through July 1, 2014. Individuals that are eligible or enrolled in COBRA should contact the public Health Insurance Marketplace (federal Exchange) call center at 1-800-318-2596 to obtain additional information and to activate their limited SEP.

## Summary

Although employers are not required to utilize the DOL model COBRA notices, it is recommended that they review existing notices and update them accordingly to provide employees and COBRA qualified beneficiaries with the details regarding the availability of federal Exchange coverage options as an alternative to COBRA coverage. Note however that the transition from the employer plan to federal Exchange coverage may not provide continuous coverage for the individual. Where COBRA coverage begins retro-active to the loss of coverage date, the federal Exchange coverage is on a prospective basis beginning on the first day of the month with the first month's effective date

based on the actual date that the individual enrolls. Therefore should an individual wait until later in their 60-day SEP to enroll there could be a significant gap in coverage if they choose a federal Exchange coverage option. The new limited SEP offered through July 1, 2014 will assist individuals currently enrolled in COBRA coverage to move to a federal Exchange coverage option; however, once no longer available individuals enrolled in COBRA will need to wait until the next federal Exchange annual open enrollment or until their COBRA coverage is exhausted in order to enroll. Additional information regarding the federal Exchange special enrollment periods is available at [www.Healthcare.gov](http://www.Healthcare.gov) within "Getting coverage outside Open Enrollment".

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