the Timberland Group
Employee Benefits & Consulting

# Timber Alert

ACA/Compliance-March 2017

# ACA OVERVIEW - COBRA


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## FAQs ON THE ACA AND COBRA

The Consolidated Omnibus Budget Reconciliation Act (COBRA) allows individuals to continue their group health plan coverage in certain situations (such as a termination or a reduction in hours, divorce or a child's loss of dependent status under the plan). The Affordable Care Act (ACA) was enacted on March 23, 2010, and makes significant changes to the U.S. health care system. However, COBRA continuation coverage was minimally affected by the ACA.

The Department of Labor (DOL) issued the following Frequently Asked Questions (FAQs) to assist in understanding the ACA as it pertains to COBRA. In addition, the Departments have issued information on the impact of the ACA's Exchanges on COBRA coverage. This ACA Overview includes the DOL's FAQs, providing an overview of how the ACA impacts COBRA.

### LINKS AND RESOURCES:

- DOL FAQs on the ACA and COBRA
- An Employee's Guide to Health Benefits Under COBRA
- The DOL's Employee Benefits Security Administration (EBSA) has developed a dedicated website on the ACA.
- More information about the ACA, including enrollment periods under the Exchanges, is available at www.healthcare.gov.

### OVERVIEW OF COBRA COVERAGE

COBRA requires group health plans to offer continuation coverage to covered employees and dependents when coverage would otherwise be lost due to certain specific events.

### ACA'S IMPACT ON COBRA

Continuation coverage under COBRA was minimally affected by the ACA. The ACA did not:

- Eliminate COBRA or change the COBRA rules;
- Extend the eligibility time period for the COBRA premium reduction; or
- Extend the maximum time period of COBRA coverage.

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## FREQUENTLY ASKED QUESTIONS:

### Q1: Did the ACA extend the COBRA premium reduction (subsidy)?

No. The ACA did not extend the eligibility time period for the COBRA premium reduction. Eligibility for the subsidy ended on May 31, 2010; however, those individuals who became eligible on or before May 31, 2010, could still receive the full 15 months as long as they remained otherwise eligible.

### Q2: Did the ACA extend the time period individuals can have COBRA beyond 18 months?

No. The ACA did not extend the maximum time periods of continuation coverage provided by COBRA. COBRA establishes required periods of coverage for continuation health benefits. A plan, however, may provide longer periods of coverage beyond those required by COBRA. 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.

Certain qualifying events, or a second qualifying event during the initial period of coverage, may allow a beneficiary to receive a maximum of 36 months of coverage.

Individuals who become disabled can extend the 18 month period of continuation coverage for a qualifying event that is a termination of employment or reduction of hours. To qualify for additional months of COBRA continuation coverage, the qualified beneficiary must:

- Have a ruling from the Social Security Administration that he or she became disabled within the first 60 days of COBRA continuation coverage (or before); and
- Send the plan a copy of the Social Security ruling letter within 60 days of receipt, but prior to expiration of the 18-month period of coverage.

If these requirements are met, the entire family qualifies for an additional 11 months of COBRA coverage.

### Q3: Did the ACA eliminate COBRA?

No. The ACA did not eliminate COBRA or change the COBRA rules.

Note: Although the COBRA rules are not affected by the ACA, the availability of the ACA's Exchanges may affect whether individuals who are eligible for COBRA decide to elect COBRA coverage. Depending on their situation, these individuals may qualify for subsidies if they purchase insurance coverage through an Exchange instead of electing COBRA, which may make coverage through an Exchange more affordable than COBRA. The model COBRA election notice has been updated to include information about the availability of Exchange coverage and premium subsidies. See below for a discussion of how Exchanges affect COBRA coverage.

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## Q4: How does the ACA affect an individual's coverage under a group health plan?

The ACA makes many changes to employee health benefit plans. Some of the changes took effect for the first plan year that began on or after six months after enactment (September 23, 2010)—so, for calendar year plans, January 1, 2011. Many of the ACA's key reforms (for example, the prohibition on pre-existing condition exclusions for all enrollees) took effect for plan years beginning on or after January 1, 2014.

## Impact of Exchanges

An individual who is eligible for COBRA coverage may also be eligible for coverage through an Exchange. An individual may enroll in a "qualified health plan" (QHP) through an Exchange if he or she:

- Is a citizen, national or non-citizen lawfully present in the U.S., and is reasonably expected to remain so for the entire period for which enrollment is sought;
- Is not incarcerated; and
- Resides in the state covered by the Exchange.

However, an individual can only enroll in a QHP through an Exchange during an open enrollment period, unless he or she has a qualifying life event that triggers special enrollment rights.  The Exchange's open enrollment period runs from **November 15 to February 15.**

Under the Exchange rules for special enrollment, an individual is eligible to enroll in a QHP if he or she **loses minimum essential coverage**. This means that, when an individual loses eligibility under an employer-sponsored plan, he or she can choose to enroll in a QHP through an Exchange instead of purchasing COBRA coverage. An individual may also choose to enroll in a QHP through an Exchange when he or she has exhausted his or her COBRA coverage.

However, if the individual initially elects COBRA coverage, he or she generally will not be able to enroll in a QHP through an Exchange until either:

- The next Exchange open enrollment period; or
- The individual exhausts COBRA coverage.

Thus, if an individual voluntarily drops COBRA coverage outside of an Exchange open enrollment period (and COBRA has not yet expired), he or she will not be able to enroll in a QHP until the next open enrollment period. This includes individuals who lose COBRA due to nonpayment of premiums.

*Source: Department of Labor*