COBRA Continuation Coverage and Obamacare

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COBRA (Consolidated Omnibus Budget and Reconciliation Act) Continuation Coverage has been a very helpful federal law that allows persons covered under a group health insurance plan to continue on the coverage after regular eligibility for the coverage is lost, e.g., an employee ceasing to be employed; a spouse who divorces the employee; a child reaches the age when she is no longer eligible for dependent coverage. It was an important law when passed, as health coverage was otherwise lost when employment stopped, and to buy individual health insurance before Obamacare, a person had to prove they were in good health with no medical problems or serious medical history.

Now, with the implementation of the Affordable Care Act (Obamacare), COBRA may still be beneficial although it is no longer the only way for a person with a medical condition to continue to have health insurance coverage.

However, COBRA Continuation Coverage has serious drawbacks:

- <u>Coverage only lasts a brief period of time</u>, and before Obamacare the choices of coverage after COBRA were greatly restricted.
- <u>Coverage is expensive</u>. Although the benefits were often broad, the COBRA Continuee is expected to pay the full premium including the portion the prior employer paid plus a 2% “administrative” charge. If a disabled COBRA Continuee qualifies for the disability extension, the premium becomes 50% more than the employer pays.
- <u>The Continuee’s coverage remains at the mercy of the former employer.</u> If the employer changes carriers or drops health insurance altogether, the coverage and cost may change or be lost completely.

Now, however, Obamacare offers a choice for people being moved to COBRA coverage. Loss of the regular employer based coverage creates a Special Enrollment Period which allows a person to purchase a plan on the health exchange as long as they do it within 60 days of the coverage ending, according to the termination date given in the COBRA Notice letter from the employer or its administrator.

Under Obamacare, based on your income, tax credits may be available to assist with the premium payments, which would not happen if you remain with COBRA. Also, there is a wide variety of plans, coverages, and prices to choose from.

NOTE: Federal law gives you 60 days from the date your coverage terminates to accept COBRA coverage, and it must be reinstated back to the date the regular coverage stops. It may also take 30 to 60 days after applying for an Obamacare policy to go into effect, depending on the exchange used in your state. To be safe, many people accept COBRA coverage, then drop it once the Obamacare policy is in force.

Be aware, also, that once the 60 days of the Special Enrollment Period for Obamacare has passed, you will not be able to enroll in an Obamacare plan until the next open enrollment or at the expiration of the COBRA coverage.

COBRA as an Alternative
For those who may want to consider COBRA, below is a brief summary of the law. Since Obamacare is an excellent, as well as a usually less costly, alternative for many, this will focus on those undergoing treatment who have a special need or desire to maintain their current coverage and medical team.

COBRA coverage is limited, usually to 18 months for terminating employees, and to 36 months for dependents losing eligibility, either through divorce, dependent child aging out of coverage, or death of the employee.

In 1989 COBRA was amended under a law called OBRA (Omnibus Budget and Reconciliation Act) to allow people who had to stop work due to disability to extend the time they could keep COBRA Continuation. Under this law, someone who qualifies may stay on their employer's COBRA Continuation until they become eligible for Medicare, which is normally 29 months after they leave work due to disability. This is because Social Security Disability Insurance (SSDI) benefits are not payable until you have been disabled for five full calendar months. Those five months plus the twenty-four months of SSDI benefits required to become eligible for Medicare add up to 29 months.

However, to qualify for this disability extension of COBRA you must meet several requirements:

- You must apply for Social Security Disability Insurance (SSDI) benefits.
- Social Security must approve your claim for disability benefits AND notify you during your initial 18 month COBRA period.
- The Onset Date of your disability must be no later than 60 days after the start of your COBRA coverage.
- Finally, you must provide a copy of your Social Security Notice of Award letter to your COBRA administrator within 60 days of receiving it AND within the 18 month COBRA period.

Now, for a practical look at each of these requirements:

1. COBRA is letting Social Security decide who was disabled when they stopped working. If you didn't pay into Social Security because you were a public school teacher or government employee and are therefore not "financially eligible," Social Security will still review your medical records to see if you are disabled enough to have qualified for benefits if you had been eligible. Such persons will need to tell Social Security that they are applying to extend COBRA to have such a claim reviewed.
2. The SSDI claim must be approved during the original 18 months of COBRA. If there is a denial and you have to wait to appeal before an Administrative Law

Judge, and it goes beyond 18 months, you lose your chance to extend COBRA even if your claim is later approved.

3. Social Security will determine the onset date of your disability. That is the date they believe you became disabled and the first of the following month is the date they start counting the five calendar months waiting period. Even if the approval letter comes in the last few months of your COBRA Continuation, you can still qualify for the extension if the Onset Date given in your approval letter is within 60 days of the COBRA Qualifying Event, usually the last day of the month in which you stopped working.
4. The COBRA administrator MUST be informed of your approval for Social Security within 60 days of the receipt of the Notice of Award letter. It is assumed that the letter was received by you within five days of the date of the letter.

   Unfortunately, ignorance or misunderstanding of this rule has cost many people their right to stay on COBRA. Too many people don't think about extending their COBRA until it is almost over, and that can be too late to get the extension.

   The COBRA administrator is usually your old employer or they may have contracted with an outside firm to administer their COBRA people. A good rule of thumb is that the copy of the Social Security Notice of Award letter should go to the same place that you send your COBRA premiums. Follow up to confirm the notice was received and ask for written confirmation of eligibility for the extension.

COBRA can be a good way to stay insured since it allows you to stay on your employer's health insurance plan until you become eligible for Medicare. The primary drawback is that during the months after the first 18 months of COBRA, the employer can (and will) charge you the actual premium PLUS 50%. If you were paying $500 per month on COBRA, the extended months will cost $750 per month.

Thanks to the Affordable Care Act (Obamacare), there is now a good alternative to the high cost of continuing the employer's coverage through COBRA for persons dealing with HCV who lose their employer coverage.