

2004 COBRA
NEW NOTICES,
NOTICE REQUIREMENTS

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FINAL COBRA REGULATIONS (2004). (Effective November 26, 2004)

A. COBRA GENERAL NOTICE.

(1) APPLICABILITY OF PROPOSED REGULATIONS.

- the old model notice (86-2) is obsolete and the use of the old Model Notice is no longer deemed to be good faith compliance with the General/Initial Notice Requirement.
- the New Model Notice is to be used immediately (employers are not to wait until 2004 policy anniversary). New Model Notice is safe harbor (see New Model Notice attached).

(2) TIME LIMITS FOR DELIVERY.

- the General Notice must be provided to the covered employee and covered spouse within 90 days from the date coverage begins.
- if the ERISA Summary Plan Description includes sufficient information to satisfy the COBRA General Notice obligation, the SPD may be used to satisfy the requirement provided the 90 day rule is met.
- if the spouse becomes covered after the employee, the spouse must be provided a COBRA General Notice within 90 days from the spouse's coverage.

(3) GUIDELINES FOR CONTENT, DELIVERY.

- the COBRA General Notice, as well as all other COBRA Notices, must be delivered using a system reasonably calculated to reach the covered spouse as well as the covered employee.
- if using an ERISA SPD to deliver the COBRA General Notice, the ERISA SPD must be directed to the plan participant employee and covered spouse (not delivered just to the plan participant).
- the (2004) regulations generally provided that delivery conditions are satisfied by providing one notice to the covered employee and covered spouse addressed to the last known address.

B. NOTIFICATION FOR QUALIFIED BENEFICIARIES TO PLAN ADMINISTRATORS.

- the 2004 final regulations deal with notices running from qualified beneficiaries to plan administrators (e.g. employers) relating to certain qualifying events (e.g. children becoming ineligible, legal separation, divorce), second qualifying events, and total disability.
- plans must provide for the establishment of reasonable procedures to be used by the qualified beneficiaries in notifying the plan administrator.
- in situations where the plan administrator fails to establish reasonable procedures, than the plan administrator would be required to accept as binding many types of written or oral notice.
- plan administrators may impose penalties on qualified beneficiaries who fail to provide prompt and timely notice if the qualified beneficiaries are informed, in the ERISA SPD and/or the COBRA General Notice, regarding the reasonable procedures for providing notice.

C. QUALIFYING EVENT ELECTION NOTIFICATIONS.

- although the COBRA statute does not specifically require a written notice for qualifying event election, the 2004 final regulations do require written notice.
- the notice must be written in a manner calculated to be understood by the average plan participant.
- the final regulations include a 14 day notice period when the employer and the plan administrator are the same entity. However, where the employer works with an outside COBRA administrator, a 44 day notice period is provided.
- qualifying events election notices must be delivered to each qualified beneficiary. However, it is sufficient under the regulations to provide a single notice to a covered employee and covered spouse residing at the same address as well as to the dependent children residing at the same address.

- the 2004 final regulations include a Model COBRA Continuation Coverage Election Notice. Use of the Model Notice creates a safe harbor.
- the 2004 final regulations include 15 criteria needed for “sufficient notice” for purposes of the new Model COBRA Continuation Coverage Election Notice (see attached Model Notice).

D. ADDITIONAL NOTICE REQUIREMENTS.

- the 2004 final regulations require that plan administrators provide a written notice to qualified beneficiaries losing COBRA coverage due to early termination of COBRA coverage.
 - the notice must be provided as soon as practicable following the decision that continuation coverage is terminating.
 - the written notice of early termination of COBRA coverage may be combined with the HIPAA Certificate of Group Health Plan Coverage.
- the 2004 final regulations include a requirement that the plan administrator issue a notice of the unavailability of continuation coverage if the plan administrator receives notification of divorce, legal separation, or a child becoming ineligible outside the 60 day notification period. (see attached Sample Notice).

EXHIBIT “B”

SAMPLE COBRA GENERAL NOTICE

Employee/Covered Dependent Spouse Name
Street Address
City, State, Zip Code

INTRODUCTION

IMPORTANT INFORMATION ABOUT YOUR COBRA CONTINUATION COVERAGE RIGHTS.

The following information is intended to inform you, in a summary fashion, of your rights and obligations under the federal group health plan continuation law, commonly known as COBRA. You should take the time to read this notice carefully. If your spouse and/or any adult children are covered under the ABC Company Group Health Plan, they should also take the time to read this notice carefully. If your covered spouse and/or any covered adult children do not reside with you, please provide them with a copy of this notice.

Any group health plan continuation rights you and your covered dependents may have under other federal and/or state continuation laws will run at the same time as your group health plan continuation reviewed herein.

1. WHAT IS CONTINUATION COVERAGE?

a. Persons Entitled to Continuation Coverage.

Federal law requires that most group health plans, including your group health plan, give employees and their families the opportunity to continue their group health care coverage when there is a “qualifying event” that would result in a loss of coverage under an employer’s plan. Persons entitled to continuation coverage are “qualified beneficiaries” and may include the employee covered under the group health plan, the covered spouse, and covered dependent children depending on the nature of the qualifying event.

b. Nature of Continuation Coverage.

Continuation coverage is the same coverage that the group health plan gives to other participants or beneficiaries under the plan who are not receiving continuation coverage. Each qualified beneficiary who elects continuation coverage will have the same rights under the group health plan as other participants or beneficiaries covered under the plan, including special enrollment rights and open enrollment rights (Delete open enrollment rights if inapplicable).

c. Further Information on Continuation Coverage.

Specific information describing continuation coverage can be found in the group health plan ERISA Summary Plan Description, which can be obtained from ABC Company, 432 Main Street, Anywhere, Minnesota, 12345, telephone (555) 623-7702.

2. HOW LONG WILL CONTINUATION COVERAGE LAST?

a. Maximum Continuation Period.

In the case of loss of group health coverage due to termination of employment (other than for gross misconduct) or a reduction in work hours, coverage may be continued for a maximum period of 18 months.

Group health plan coverage may be continued for a maximum period of 36 months if the loss of group health plan coverage is due to any of the following:

1. the employee's death;
2. a divorce or legal separation;
3. the employee's enrollment in Medicare;
4. a dependent child ceasing to be a dependent under term of the group health plan.

b. Termination of Continuation Coverage Before the End of the Maximum Period.

Continuation coverage will be terminated before the end of the maximum continuation period for any of the following reasons:

- (1) ABC Company no longer provides group health plan coverage to any of its employees;
- (2) The premium for continuation coverage is not paid on time;

- (3) After making a COBRA election, the qualified beneficiary first becomes covered under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary;
- (4) After making a COBRA election, the qualified beneficiary first becomes enrolled in Medicare;
- (5) A final determination has been made that the qualified beneficiary is no longer totally disabled. Termination of coverage is effective in the month that begins more than 30 days after the final determination.
- (6) For any reason that group health plan would terminate coverage of a plan participant or beneficiary not receiving continuation coverage (e.g. fraud).

3. HOW CAN YOU EXTEND THE LENGTH OF THE GROUP HEALTH PLAN CONTINUATION COVERAGE?

If you elect continuation coverage, an extension of the maximum period of 18 months of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify ABC Company of a disability or second qualifying event in order to extend the period of continuation coverage. Failure to provide notice of a disability or a second qualifying event may affect the right to extend coverage.

a. Continuation on Disability.

An 11 month extension of group health plan continuation (total of 29 month continuation) may be available if any of the qualified beneficiaries (including dependents) is disabled. In order to be entitled to the 29 month continuation, the qualified beneficiary must satisfy all of the following conditions:

- (1) the disability must be approved by the Social Security Administration; and
- (2) the disability must have occurred prior to the end of the 60 day election period for continuation coverage; and
- (3) the qualified beneficiary must notify ABC Company within 60 days of the Social Security approval of disability; and

- (4) the qualified beneficiary must notify ABC Company regarding the Social Security determination of disability prior to expiration of the 18 month continuation coverage.

If the qualified beneficiary is determined by the Social Security Administration to no longer be disabled, you must notify ABC Company of the fact within 30 days of the Social Security decision.

b. Second Qualifying Event.

If the second qualifying event occurs during the first 18 months of continuation coverage, spouses and dependent children who elected continuation coverage will have available an additional 18 month extension of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is 36 months.

Second qualifying events include:

- (1) death of the employee; or
- (2) divorce or legal separation from the employee; or
- (3) the covered employee's enrollment in Medicare; or
- (4) a dependent child ceasing to be an eligible for coverage as a dependent under the plan.

You must notify ABC Company, 432 Main Street, Anywhere, Minnesota, 12345, within 60 days after a second qualifying event occurs, in order to extend your continuation coverage.

4. HOW CAN YOU ELECT CONTINUATION COVERAGE?

a. Separate Elections.

Each qualified beneficiary has a separate, independent right to elect group health plan continuation coverage. For example, both the employee and the employee's spouse may elect continuation coverage, or only one of them. Parents may elect to continue coverage on behalf of their dependent children only.

b. Time Limits for Elections.

The qualified beneficiary must elect continuation coverage with 60 days from the date of the qualifying event or the loss of group health plan coverage due to the qualifying event, whichever is later. Failure to do so will result in a loss of the right to elect continuation coverage under the group health plan.

c. Problems in Failing to Elect Continuation Coverage.

In considering whether to elect continuation coverage, you should take into Account that a failure to continue your group health plan will affect your Future rights under the federal law.

First, you may have a pre-existing conditions exclusion applied to your Coverage under other group health plans if you have more than a 63 day gap In your health coverage, and election of continuation coverage (along with Premium payment) will eliminate any gap in coverage.

Second, if you fail to elect group health plan continuation, you will lose the guaranteed right to purchase individual health insurance policies that do not impose pre-existing condition exclusion. The guaranteed right to purchase such individual policies applies only where you accept continuation coverage for the maximum continuation period available to you.

d. Special Enrollment Right in Other Group Health Plans.

You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health plan coverage ends because of a qualifying event.

You will also have the same enrollment right at the end of continuation coverage if you maintain continuation coverage for the maximum time available to you.

5. HOW MUCH DOES CONTINUATION COVERAGE COST?

Each qualified beneficiary will be required to pay the entire cost of continuation coverage. The amount a qualified beneficiary will be required to pay will not exceed 102 percent of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated plan participant (covered employee) or beneficiary (covered dependent) who is not receiving

Continuation coverage, unless the qualified beneficiary is continuing coverage due to a disability.

If the qualified beneficiary is continuing group health plan coverage due to a disability, the group health plan may charge you 150 percent of the premium cost for months 19 through 29 of your disability extension.

6. WHEN AND HOW MUST PAYMENT FOR CONTINUATION COVERAGE BE MADE?

a. Time Limit for First Payment.

You must make your first payment for group health plan continuation coverage within 45 days from the date you make an election for continuation coverage (this is the date the election notice is post marked, if mailed). If you do not make your first payment for your continuation coverage with the 45 day period, you will lose all continuation rights under the plan.

b. Amount of First Premium Payment.

Your first premium payment must cover the cost of continuation coverage from the time your coverage under the plan would have otherwise terminated up to the time you make your first payment. You are responsible for making sure that the amount of your first payment is enough to cover this entire period. You may contact ABC Company, 432 Main Street, Anywhere, Minnesota, 12345, to confirm the amount of your first premium.

c. Premium Payments After the First Premium Payment.

After you make your first payment for continuation coverage, you will be required to pay for continuation coverage for each subsequent month of coverage. Under the plan, these periodic payments are due on the first day of each month. The monthly premium payments for continuation coverage are to be sent to: ABC Company, 432 Main Street, Anywhere, Minnesota, 12345. Attn: Ms. Jane Doe, Human Resource Director.

Although monthly premium payments are due on the first day of each month, you will be given a grace period of 30 days to make each premium payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage is made before the end of the grace period.

d. Suspension of Grace Period Coverage for Non-Payment.

However, if you make a monthly premium payment for continuation coverage later than the due date but during its grace period, your coverage under the group health plan will be suspended as of the due date and then, retroactively reinstated, going back to the due date, when the monthly premium payment is made. This means that any claim you submit for benefits while your coverage is suspended may be denied and the claim may have to be resubmitted once your coverage has been reinstated.

e. Loss of Coverage Due to Non-Payment During the Grace Period.

If you fail to make a monthly premium payment beyond the end of the grace period, you will lose all rights to continuation coverage under the group health plan.

7. DO YOU HAVE THE RIGHT TO OTHER HEALTH INSURANCE COVERAGE AFTER CONTINUATION COVERAGE ENDS?

Under the group health plan, you have the right, when your group health plan coverage ends, to enroll in an individual health insurance policy, with out providing proof of good health. That benefits provided under such a conversion policy may not be identical to those provided under the group health plan. You may exercise this right in lieu of electing continuation coverage, or you may exercise this right after you have received the maximum continuation coverage available to you.

You should note that if you enroll in an individual conversion policy you lose the right under federal law to purchase individual health insurance that does not impose any pre-existing conditions limitations when your conversion policy coverage ends.

8. WHAT NOTIFICATION PROCEDURES ARE TO BE USED WHEN THE PLAN PARTICIPANT (e.g. EX-EMPLOYEE) OR BENEFICIARY (DEPENDENT SPOUSE) IS REQUIRED TO NOTIFY THE PLAN ADMINISTRATOR (e.g. EMPLOYER)?

a. Events Requiring Notification.

Under the federal group health plan continuation law, the qualified beneficiary (or their representative) has the legal responsibility to inform ABC Company, 432 Main Street, Anywhere, Minnesota, 12345, of the following qualifying events:

- (1) divorce or legal separation;
- (2) a dependent child ceasing to be dependent under the terms of the Group health plan;
- (3) disability (for the purpose of extending continuation coverage from 18 months to 29 months);
- (4) second qualifying events (for the purpose of extending continuation Coverage from 18 months to 36 months).

If you, your dependent or your representative fail to notify the plan administrator within 60 days of divorce, legal separation or a dependent child ceasing to be a dependent under the terms of the plan, all continuation coverage rights will be lost.

See Section 3 in these materials for information on disability continuation and second qualifying event.

b. Notification Procedures.

Notification to the plan administrator must be in writing and:

- (1) disclose the nature of the event (e.g. divorce, second qualifying event, SSA determination of disability); and
- (2) the date the event occurred (e.g. date of divorce); and
- (3) the name(s) and current address(es) of those person entitled to continuation coverage or an extension of continuation coverage;
And
- (4) enclose documentation (e.g. copy of Social Security determination of disability) verifying and confirming the qualifying or second qualifying event; and
- (5) the name(s) and current address(es) of those persons who are to receive information on continuation coverage in the future, if different from those person entitled to continuation coverage or and extension of continuation coverage (e.g. attorney, social security agency, spouse of an incapacitated plan participant).

Hand deliver or mail the written notification to Ms. Jane Doe, Human Resource Director, ABC Company, 432 Main Street, Anywhere, Minnesota, 12345. The notification must be postmarked within 60 Days from the date of the qualifying event, second qualifying event, or, If applicable, loss of group health plan coverage date, whichever is later.

FOR MORE INFORMATION.

This notice does not fully describe continuation coverage or other rights under the group health plan. More information about continuation coverage and your rights under the group health plan is available in your Summary Plan Description or from the plan administrator.

You can get a copy of your Summary Plan Description from Ms. Jane Doe, Human Resource Director, ABC Company, 432 Main Street, Anywhere, Minnesota, 12345.

For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA Website at www.dol.gov/EBSA.

KEEP YOUR PLAN INFORMED OF ADDRESS CHANGES.

In order to protect your family's rights, you should keep the plan administrator (ABC Company, 432 Main Street, Anywhere, Minnesota, 12345) informed of any changes in the addresses of family members. You should also keep a copy for your records of any notices you send to the plan administrator.

MODEL COBRA CONTINUATION COVERAGE ELECTION NOTICE
(For use by single-employer group health plans)

[Enter date of notice]

Dear: [Identify the qualified beneficiary(ies), by name or status]

This notice contains important information about your right to continue your health care coverage in the [enter name of group health] (the Plan). Please read the information contained in this notice very carefully.

To elect COBRA continuation coverage, follow the instructions on the next page to complete the enclosed Election Form and submit it to us.

If you do not elect COBRA continuation coverage, your coverage under the Plan will end on [enter date] due to [check appropriate box]:

- | | |
|--|---|
| <input type="checkbox"/> End of employment | <input type="checkbox"/> Reduction in hours of employment |
| <input type="checkbox"/> Death of employee | <input type="checkbox"/> Divorce or legal separation |
| <input type="checkbox"/> Entitlement to Medicare | <input type="checkbox"/> Loss of dependent child status |

Each person (“qualified beneficiary”) in the category(ies) checked below is entitled to elect COBRA continuation coverage, which will continue group health care coverage under the Plan for up to ____ months [enter 18 or 36, as appropriate and check appropriate box or boxes, names may be added]:

- Employee or former employee
- Spouse or former spouse
- Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
- Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

If elected, COBRA continuation coverage will begin on [enter date] and can last until [enter date]. [Add, if appropriate: You may elect any of the following options for COBRA continuation coverage: [list available coverage options]].

COBRA continuation coverage will cost: [enter amount each qualified beneficiary will be required to pay for each option per month of coverage and any other permitted coverage periods.] You do not have to send any payment with the Election Form. Important additional information about payment for COBRA continuation coverage is included in the pages following the Election Form.

If you have any questions about this notice or your rights to COBRA continuation coverage, you should contact [enter name of party responsible for COBRA administration for the Plan, with telephone number and address].

COBRA CONTINUATION COVERAGE ELECTION FORM

INSTRUCTIONS: To elect COBRA continuation coverage, complete this Election Form and return it to us. Under federal law, you must have 60 days after the date of this notice to decide whether you want to elect COBRA continuation coverage under the Plan.

Send completed Election Form to: *[Enter Name and Address]*

This Election Form must be completed and returned by mail *[or describe other means of submission and due date]*. If mailed, it must be post-marked no later than *[enter date]*.

If you do not submit a completed Election Form by the due date shown above, you will lose your right to elect COBRA continuation coverage. If you reject COBRA continuation coverage before the due date, you may change your mind as long as you furnish a completed Election Form before the due date. However, if you change your mind after first rejecting COBRA continuation coverage, your COBRA continuation coverage will begin on the date you furnish the completed Election Form.

Read the important information about your rights included in the pages after the Election Form.

I (We) elect COBRA continuation coverage in the *[enter name of plan]* (the Plan) as indicated below:

Name	Date of Birth	Relationship to Employee	SSN (or other identifier)
a. _____			
<i>[Add if appropriate: Coverage option elected: _____]</i>			
b. _____			
<i>[Add if appropriate: Coverage option elected: _____]</i>			
c. _____			
<i>[Add if appropriate: Coverage option elected: _____]</i>			

Signature

Date

Print Name

Relationship to individual(s) listed above

Print Address

Telephone number

IMPORTANT INFORMATION
ABOUT YOUR COBRA CONTINUATION COVERAGE RIGHTS

What is continuation coverage?

Federal law requires that most group health plans (including this Plan) give employees and their families the opportunity to continue their health care coverage when there is a “qualifying event” that would result in a loss of coverage under an employer’s plan. Depending on the type of qualifying event, “qualified beneficiaries” can include the employee (or retired employee) covered under the group health plan, the covered employee’s spouse, and the dependent children of the covered employee.

Continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries under the Plan who are not receiving continuation coverage. Each qualified beneficiary who elects continuation coverage will have the same rights under the Plan as other participants or beneficiaries covered under the Plan, including [*add if applicable*: open enrollment and] special enrollment rights.

How long will continuation coverage last?

In the case of a loss of coverage due to end of employment or reduction in hours of employment, coverage generally may be continued only for up to a total of 18 months. In the case of losses of coverage due to an employee’s death, divorce or legal separation, the employee’s becoming entitled to Medicare benefits or a dependent child ceasing to be a dependent under the terms of the plan, coverage may be continued for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee’s hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. This notice shows the maximum period of continuation coverage available to the qualified beneficiaries.

Continuation coverage will be terminated before the end of the maximum period if:

- Any required premium is not paid in full on time,
- A qualified beneficiary becomes covered, after electing continuation coverage, under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary,
- A covered employee becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- The employer ceases to provide any group health plan for its employees.

Continuation coverage may also be terminated for any reason the Plan would terminate coverage of a participant or beneficiary not receiving continuation coverage (such as fraud).

[If the maximum period shown on page 1 of this notice is less than 36 months, add the following three paragraphs:]

How can you extend the length of COBRA continuation coverage?

If you elect continuation coverage, an extension of the maximum period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify [*enter name of party responsible for COBRA administration*] of a disability or a second qualifying event in order to extend the period of continuation coverage. Failure to provide notice of a disability or second qualifying event may affect the right to extend the period of continuation coverage.

Disability

An 11-month extension of coverage may be available if any of the qualified beneficiaries is determined by the Social Security Administration (SSA) to be disabled. The disability has to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. [*Describe Plan provisions for requiring notice of disability determination, including time frames and procedures.*] Each qualified beneficiary who has elected continuation coverage will be entitled to the 11-month disability extension if one of them qualifies. If the qualified beneficiary is determined by SSA to no longer be disabled, you must notify the Plan of that fact within 30 days after SSA's determination.

Second Qualifying Event

An 18-month extension of coverage will be available to spouses and dependent children who elect continuation coverage if a second qualifying event occurs during the first 18 months of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is 36 months. Such second qualifying events may include the death of a covered employee, divorce or separation from the covered employee, the covered employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), or a dependent child's ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. You must notify the Plan within 60 days after a second qualifying event occurs if you want to extend your continuation coverage.

How can you elect COBRA continuation coverage?

To elect continuation coverage, you must complete the Election Form and furnish it according to the directions on the form. Each qualified beneficiary has a separate right to elect continuation coverage. For example, the employee's spouse may elect continuation coverage even if the employee does not. Continuation coverage may be elected for only one, several, or for all dependent children who are qualified beneficiaries. A parent may elect to continue coverage on behalf of any dependent children. The employee or the employee's spouse can elect continuation coverage on behalf of all the qualified beneficiaries.

In consideration whether to elect continuation coverage, you should take into account that a failure to continue your group health coverage will affect your future rights under federal law. First, you can lose the right to avoid having pre-existing condition exclusions applied to you

by other group health plans if you have more than a 63-day gap in health coverage, and election of continuation coverage may help you not have such a gap. Second, you will lose the guaranteed right to purchase individual health insurance policies that do not impose such pre-existing condition exclusions if you do not get continuation coverage for the maximum time available to you. Finally, you should take into account that you have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage ends because of the qualifying event listed above. You will also have the same special enrollment right at the end of continuation coverage if you get continuation coverage for the maximum time available to you.

How much does COBRA continuation coverage cost?

Generally, each qualified beneficiary may be required to pay the entire cost of continuation coverage. The amount a qualified beneficiary may be required to pay may not exceed 102 percent (or, in the case of an extension of continuation coverage due to a disability, 150 percent) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated plan participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

[If employees might be eligible for trade adjustment assistance, the following information may be added: The Trade Act of 2002 created a new tax credit for certain individuals who become eligible for trade adjustment assistance and for certain retired employees who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC) (eligible individuals). Under the new tax provision, eligible individuals can either take a tax credit or get advance payment of 65% of premiums paid for qualified health insurance, including continuation coverage. If you have questions about these new tax provisions, you may call the Health Coverage Tax Credit Customer Contact Center toll-free at 1-866-628-4282. TTD/TTY callers may call toll-free at 1-866-626-4282. More information about the Trade Act is also available at www.doleta.gov/tradeact/2002act_index.asp.

When and how must payment for COBRA continuation coverage be made?

First payment for continuation coverage

If you elect continuation coverage, you do not have to send any payment with the Election Form. However, you must make your first payment for continuation coverage not later than 45 days after the date of your election. (This is the date the Election Notice is post-marked, if mailed.) If you do not make your first payment for continuation coverage in full not later than 45 days after the date of your election, you will lose all continuation coverage rights under the Plan. You are responsible for making sure that the amount of your first payment is correct. You may contact *[enter appropriate contact information, e.g., the Plan Administrator or other party responsible for COBRA administration under the Plan]* to confirm the correct amount of your first payment.

Periodic payments for continuation coverage

After you make your first payment for continuation coverage, you will be required to make periodic payments for each subsequent coverage period. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due on the [enter due day for each monthly payment] for that coverage period. [If Plan offers other payment schedules, enter with appropriate dates. You may instead make payments for continuation coverage for the following coverage periods, due on the following dates:]. If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan [select one: will or will not] send periodic notices of payments due for these coverage periods.

Grace period for periodic payments

Although periodic payments are due on the dates shown above, you will be given a grace period of 30 days after the first day of the coverage period [or enter longer period permitted by Plan] to make each periodic payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage period is made before the end of the grace period for that payment. [If Plan suspends coverage during grace period for nonpayment, enter and modify as necessary: However, if you pay a periodic payment later than the first day of the coverage period to which it applies, but before the end of the grace period for the coverage period, your coverage under the Plan will be suspended as of the first day of the coverage period and then retroactively reinstated (going back to the first day of the coverage period) when the periodic payment is received. This means that any claim you submit for benefits while your coverage is suspended may be denied and may have to be resubmitted once your coverage is reinstated.]

If you fail to make a periodic payment before the end of the grace period for that coverage period, you will lose all rights to continuation coverage under the Plan.

Your first payment and all periodic payments for continuation coverage should be sent to:

[enter appropriate payment address]

For more information

This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your summary plan description or from the Plan Administrator.

If you have any questions concerning the information in this notice, your rights to coverage, or if you want a copy of your summary plan description, you should contact [enter name of party responsible for COBRA administration for the Plan, with telephone number and address]

For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

Keep Your Plan Informed of Address Changes

In order to protect you and your family's rights, you should keep the Plan Administrator informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

EXHIBIT "K1"
NOTICE OF UNAVAILABILITY OF
CONTINUATION COVERAGE

EXHIBIT "K1"

NOTICE OF UNAVAILABILITY OF CONTINUATION COVERAGE

Date

Name

Street Address

City, State, Zip Code

Your group health plan coverage under the ABC Company group health plan ends on

_____, _____.

Although, under the federal COBRA law, certain losses of group health plan coverage allow plan participants (covered employees) and dependents (covered spouses) the option to continue group health plan coverage after coverage would normally end, your loss of group health plan coverage does not entitle you to continuation coverage because:

- You were terminated from employment due to gross misconduct;

- There was no qualifying event causing the loss of group health plan coverage;
- You failed to notify the employer/plan administrator within 60 days of your qualifying event loss of coverage;
- The employer has terminated the group health plan coverage for everyone;
- Failed to pay health insurance premium on a timely basis.

HEALTH INSURANCE OPTIONS.

Although you are not entitled to continuation coverage, you may have other options for health insurance coverage. First, you have the right to request Special Enrollment in another group health plan for which you are eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health plan coverage ends. Check with your spouse's employer.

{IF THE GROUP HEALTH PLAN HAS A CONVERSION PRIVILEGE, ADD THIS PARAGRAPH}

When you lose coverage under a group health plan, you may convert your group health plan coverage to an individual conversion policy, without providing evidence of good health, if the application for conversion and the premium payment are received by the insurance carrier within 30 days from the group health plan loss of coverage.

The conversion policy benefits may be less than benefits payable under the group health plan. Check with the insurance carrier underwriting the group health plan for information on conversion.

{IF THE PERSONS LOSING GROUP HEALTH PLAN COVERAGE ARE ELIGIBLE FOR A HIPAA PORTABILITY POLICY, ADD THIS PARAGRAPH}.

The federal Health Insurance Portability and Accountability Act provides a guaranteed issue individual health insurance plan option to certain individuals losing group health plan coverage. You must apply for this portability policy within 30 days of your loss of coverage. Check with the insurance carrier underwriting your group health plan for information on the portability policy.

Furthermore, when you lose coverage under a group health plan, you have the right to enroll, without providing evidence of good health, in the state sponsored insurance plan through the Minnesota Comprehensive Health Association. You have the right to enroll in this MCHA plan within 90 days of your group health plan loss of coverage. For further information on MCHA coverage, contact the Minnesota Comprehensive Health Association or your insurance agent.

Lastly, you may apply for an individual health insurance policy. However, these plans are subject to evidence of group health and your application for insurance may be rejected by the insurance carrier or subject to a pre-existing conditions exclusion (e.g. temporary health plans).

PROBLEMS IN FAILING TO PROVIDE CONTINUOUS HEALTH INSURANCE COVERAGE.

In considering whether to purchase new health insurance coverage, you should take into account that a failure to purchase new health insurance coverage will affect your future rights under the federal HIPAA Law. You may have a pre-existing condition exclusion applied to future group health plan coverage if you have more than a 63 day gap in your health coverage. The purchase of new health insurance coverage, immediately following your group health plan loss of coverage, will eliminate any gap in coverage.

If further information is required, please contact Ms. Jane Doe, Human Resource Director, ABC Company, 432 Main Street, Anywhere, Minnesota, 12345, (612) 555-1212.

Very truly yours,

ABC Company

Certificate of Group Health Plan Coverage

***Important – This certificate provides evidence of your prior health coverage. You may need to furnish this certificate if you become eligible under a group health plan that excludes coverage for certain medical conditions that you have before you enroll. This certificate may need to be provided if medical advice, diagnosis, care, or treatment was recommended or received for the condition within the 6-month period prior to your enrollment in the new plan. If you become covered under another group health plan, check with the plan administrator to see if you need to provide this certificate. You may also need to buy, for yourself or your family, an insurance policy that does not exclude coverage for medical conditions that are present before you enroll.**

1. Date of this certificate: _____
2. Name of group health plan: _____
3. Name of participant: _____
4. Identification number of participant: _____
5. Name of any dependents to whom this certificate applies: _____

6. Name, address, and telephone number of plan administrator or issuer responsible for providing this certificate: _____

7. For further information, call: _____
8. If the individual(s) identified in line 3 and line 5 has at least 18 months of creditable coverage (disregarding periods of coverage before a 63-day break), check here _____ and skip lines 9 and 10.
9. Date waiting period or affiliation period (if any) began: _____
10. Date coverage began: _____
11. Date coverage ended: _____ (or check if coverage is continuing as of the date of this certificate: _____).

Note: separate certificates will be furnished if information is not identical for the participant and each beneficiary.