



FACTSHEET

NOVEMBER 2016

Job Loss - Important Information Workers Need To Know To Protect Their Health Coverage and Retirement Benefits

The Department of Labor's Employee Benefits Security Administration (EBSA) administers the Employee Retirement Income Security Act of 1974 (ERISA), which governs retirement plans (including profit sharing and 401(k) plans) and welfare plans (including health, disability, and life insurance plans). ERISA also includes the health coverage continuation and portability provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) and the Health Insurance Portability and Accountability Act (HIPAA), as well as protections added by the Affordable Care Act (ACA). This fact sheet focuses on job loss, its effect on workers' health benefits and retirement benefits, and how these laws impact workers' rights.

When facing job loss or a reduction in hours, you need to know your options ahead of time to prevent loss of health coverage. There may be several options available to individuals who are losing their health coverage when they lose their jobs:

Special Enrollment in Another Group Plan. If other group health coverage is available (for example through a spouse's employer-provided plan), special enrollment in that plan should be considered. It allows the individual and his/her family an opportunity to enroll in a plan for which they are otherwise eligible, regardless of enrollment periods. However, to qualify, enrollment must be requested within 30 days of losing eligibility for other coverage. After you request special enrollment, your coverage will begin no later than the first day of the next month.

In addition, under the ACA, a group health plan cannot deny coverage to an individual due to a preexisting condition. A plan generally cannot limit or deny benefits relating to a health condition that was present before your enrollment date in the plan.

COBRA Continuation Coverage. If the individual's employer continues to operate and offer a group health plan, COBRA continuation coverage may be available. COBRA, which generally applies to employers with 20 or more employees, allows the individual and his/her family to continue the same group health coverage at group rates. The cost for coverage may be higher than what the individual was paying before because former employees usually pay the entire premium, that is, the premium active employees pay plus the amount of the contribution made by the employer. In addition, there may be a 2 percent administrative fee. The cost for COBRA coverage is usually higher than the cost for coverage under special enrollment in a spouse's plan.

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The plan should send a notice regarding the availability of COBRA coverage. After this notice is provided, you generally have 60 days to elect coverage. COBRA begins the day health care coverage ended and lasts up to 18 months (and longer in some cases). Note: Once an individual has elected COBRA, he/she won't be eligible for special enrollment in another group health plan, such as a spouse's plan, until all COBRA coverage available is exhausted.

Workers who have lost or may lose their jobs due to the negative effects of global trade may be eligible for the Health Coverage Tax Credit (HCTC), a refundable tax credit to pay for specified types of health insurance coverage (including COBRA continuation coverage). The HCTC pays 72.5% of qualified health insurance premiums, with individuals paying 27.5%. For more information, visit [IRS.gov/HCTC](https://www.irs.gov/HCTC).

Special Enrollment in Individual Health Coverage. The Health Insurance Marketplace is another way that workers who lose their jobs can find health coverage for themselves and their families. The Marketplace offers comprehensive health coverage and you may be eligible for a tax credit that will lower your monthly premiums and cost-sharing reductions that will lower your out-of-pocket costs for deductibles, coinsurance, and copayments. Losing your job-based health coverage is a special enrollment event which allows you to enroll in a Marketplace plan outside of the open enrollment period. To qualify for special enrollment, you must select a plan either within 60 days before losing your job-based coverage or within 60 days after losing your job-based coverage. The date your coverage will start depends on when you select a plan. A Marketplace plan, like a group health plan, cannot deny coverage due to a pre-existing condition. Information on Marketplace coverage is available at [HealthCare.gov](https://www.healthcare.gov) or by calling 1-800-318-2596 (TTY 1-855-889-4325).

Health Coverage through a Government Program. At [Healthcare.gov](https://www.healthcare.gov), you also can find out if you and your family qualify for free or low-cost coverage from Medicaid and/or the Children's Health Insurance Program (CHIP). Medicaid is a state-administered health coverage program for low-income families and children, pregnant women, the elderly, people with disabilities, and in some states, other adults. CHIP is a Federal/state partnership that helps provide children – including those in families who do not have health coverage due to a temporary reduction in income – with health coverage. Information on Medicaid can be obtained through your state Medicaid office. CHIP information is available at [insurekidsnow.gov](https://www.insurekidsnow.gov).

Retirement Benefits. ERISA provides rules for those responsible for the management and oversight of your retirement plan. It also provides you with rights and responsibilities, including specific rights to plan information. If you lose your job, make sure you have a copy of your plan's current Summary Plan Description (SPD) and your individual benefit statement. If not, request a copy. The SPD tells you if and when you can collect your benefits or how to roll over your 401(k) account to a new employer's plan or to an IRA (if your old plan permits you to do so). The individual benefit statement lets you monitor your account balance and is an important statement to keep on file. If your retirement savings remain in your former employer's plan, keep current on any changes the company makes, including changes of address, employer name, or mergers and give the plan any changes to your contact information. If your benefits are in a traditional pension plan and your plan ends without enough money to pay the promised benefits, the Pension Benefit Guaranty Corporation will assume responsibility as trustee of the plan and pay benefits up to a maximum guaranteed amount set by law.

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The free publications listed below provide more information:

- [Retirement and Health Care Coverage...Questions and Answers for Dislocated Workers](#)
- [An Employee's Guide to Health Benefits under COBRA](#)
- [What You Should Know About Your Retirement Plan](#)

They are available on EBSA's Web site or by calling toll-free [1-866-444-3272](tel:1-866-444-3272) to request copies. If you have questions about these options, you can contact one of our Benefits Advisors electronically at askebsa.dol.gov or by calling [1-866-444-3272](tel:1-866-444-3272).

For more information on the Pension Benefit Guaranty Corporation, visit pbgc.gov or call [1-800-400-7242](tel:1-800-400-7242).

<https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/publications/health-and-retirement-benefits-after-job-loss>

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate formats upon request: Voice telephone: 202-693-8664; TTY: 202-501-3911. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

Protecting Retirement and Health Benefits after Job Loss

Job loss or a reduction in hours can result in a loss of retirement and health benefits. However, federal law may help protect employees' (and their families') benefits when employment changes. Coverage options will vary depending on a variety of factors, so it's a good idea to compare options before choosing.

You Can Enroll In Another Employment-based Health Plan

If you lose eligibility for your health care coverage when switching from one job to another, but other group health coverage is available (for example, through a spouse's employment-based plan), consider enrolling in that plan via "special enrollment." Under the Health Insurance Portability and Accountability Act (HIPAA), special enrollment allows you and your family to enroll in a plan for which you are otherwise eligible, regardless of open enrollment periods. To qualify, you must request special enrollment within 30 days of losing eligibility for your original coverage. Your coverage must be effective no later than the first day of the first month following your request for enrollment.

If you enroll in employment-based group health plan coverage (such as special enrollment into a spouse's plan), group health plans and insurers can't refuse to cover treatment for preexisting conditions.

You Can Continue In Your Old Health Plan

The Consolidated Omnibus Budget Reconciliation Act (COBRA) can help former employees and their families temporarily continue their health care coverage. You may qualify for COBRA coverage if:

- You were laid off, quit your job, or retired, or your hours were reduced;
- You were not fired for gross misconduct;
- Your employer had 20 or more employees;
- You were a participant in your employer's group health plan; and
- Your employer continues to maintain a health plan.

Once your job ends, your plan must provide you with written notice explaining your rights under COBRA. You have 60 days from the date the notice is provided or from the date coverage ended – whichever is later – to sign up for COBRA coverage. It begins the day your health care coverage ended and lasts up to 18 months (and longer in some cases). However, the plan may require you to pay the entire group rate premium, plus a 2 percent administrative fee. (For more information on COBRA, order a free copy of *An Employee's Guide to Health Benefits Under COBRA* using the link or phone number on the other side of this card.)

You Can Enroll in Individual Coverage

Another option is to buy individual insurance coverage through the Health Insurance Marketplace. The Marketplace lets you see the health plan options available in your area in one place. You may be eligible for a tax credit that lowers your monthly premiums right away. You can see what your premium, deductibles, and out-of-pocket costs will be before you decide to enroll. You also may be eligible for a special enrollment opportunity in Marketplace coverage. For more information, visit [HealthCare.gov/coverage-outside-open-enrollment/special-enrollment-period/](https://www.healthcare.gov/coverage-outside-open-enrollment/special-enrollment-period/).

Protecting Your Retirement Assets

If you lose your job, ask your plan administrator for a copy of your retirement plan's Summary Plan Description (SPD) and an individual benefit statement. The Summary Plan Description tells you what benefits the plan provides, when you can collect them, and, if you have a 401(k) account, whether your plan permits you to roll it over to a new employer's plan or to an IRA. The individual benefit statement lets you monitor your account balance. Keep it with your important papers. Also, the individual benefit statement is provided on a periodic basis so make sure you notify your plan administrator of any change of address. (For more information on protecting your retirement benefits, order a free copy of *What You Should Know About Your Retirement Plan* using the link or phone number below.)

Get the Facts NOW

Contact EBSA if you have questions about your rights and responsibilities under HIPAA, COBRA, the Affordable Care Act, and the Employee Retirement Income Security Act.

For more information about health insurance options available through the Health Insurance Marketplace, visit [HealthCare.gov](https://www.healthcare.gov).



EMPLOYEE BENEFITS SECURITY ADMINISTRATION
U.S. DEPARTMENT OF LABOR

Order publications, ask questions, request assistance from a benefits advisor, or request disability-accessible materials:



Main site: dol.gov/agencies/ebsa
Ask EBSA: askebsa.dol.gov



Toll-free: 1-866-444-3272
TTY: 202-501-3911

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COBRA Continuation Coverage

Throughout a career, workers will face multiple life events, job changes or even job losses. The continuation coverage provisions of COBRA — the Consolidated Omnibus Budget Reconciliation Act — help workers and their families keep their group health coverage during times of voluntary or involuntary job loss, reduction in the hours worked, transition between jobs and in certain other cases.

- ◆ COBRA generally requires that group health plans offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end.
- ◆ The law generally applies to all group health plans maintained by employers (private-sector and state/local government) that have at least 20 employees on more than 50 percent of its typical business days in the previous calendar year. Both full- and part-time employees are counted to determine whether a plan is subject to COBRA. The law does not apply to plans sponsored by the Federal Government or by churches and certain church-related organizations.
- ◆ Several events that can cause workers and their family members to lose group health coverage may result in the right to COBRA coverage. These include:
 - Termination of the covered employee’s employment for any reason other than gross misconduct;
 - Reduction in the covered employee’s hours of employment;
 - Covered employee becomes entitled to Medicare;
 - Divorce or legal separation of the spouse from the covered employee;
 - Death of the covered employee; or
 - Loss of “dependent child” status under the plan rules.
- ◆ Under COBRA, the employee or family member may qualify to keep their group health plan benefits for a set period of time, depending on the reason for losing the health coverage. The following represents some basic information on periods of continuation coverage:

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Qualifying Event	Qualified Beneficiaries	Maximum Period of Continuation Coverage
Termination (for reasons other than gross misconduct) or reduction in hours of employment	Employee Spouse Dependent Child	18 months (In certain circumstances, qualified beneficiaries may become entitled to a disability extension of an additional 11 months or an extension of an additional 18 months due to the occurrence of a second qualifying event.)
Employee enrollment in Medicare	Spouse Dependent Child	36 months (The actual period of continuation coverage may vary depending on factors such as whether the Medicare entitlement occurred prior to or after the end of the covered employee's employment or reduction in hours.)
Divorce or legal separation	Spouse Dependent Child	36 months
Death of employee	Spouse Dependent Child	36 months
Loss of "dependent child" status under the plan	Dependent Child	36 months

- ◆ However, COBRA also provides that your continuation coverage may be cut short in certain cases.

Notification Requirements

- ◆ A general notice must be furnished to covered employees and spouses, within the first 90 days of coverage under the plan, informing them of their rights under COBRA and describing provisions of the law. COBRA information also is required to be contained in the plan's Summary Plan Description (SPD).
- ◆ Under COBRA, the covered employee or a family member has the responsibility to inform the plan administrator of a divorce, legal separation, disability or a child losing dependent status under the plan.
- ◆ Employers have a responsibility to notify the plan administrator of the employee's death, termination of employment or reduction in hours, Medicare entitlement, or bankruptcy of a private-sector employer.
- ◆ When the plan administrator is notified that a qualifying event has happened (by the covered employee or family member, or by the employer), it must in turn notify each qualified beneficiary of the right to choose continuation coverage.
- ◆ COBRA allows at least 60 days from the date the election notice is provided to inform the plan administrator that the qualified beneficiary wants to elect continuation coverage.

Premium Payments

- ◆ Qualified individuals may be required to pay the entire premium for coverage up to 102% of the cost to the plan. Premiums may be higher for persons exercising the disability extension provisions of COBRA. Failure to make timely payments may result in loss of coverage.
- ◆ Premiums may be increased by the plan; however, premiums generally must be set in advance of each 12-month premium cycle.

For More Information

The Employee Benefits Security Administration offers more information on COBRA on its [Website](#), including Frequently Asked Questions for [workers](#) and employers and publications such as:

- ◆ [An Employee's Guide to Health Benefits Under COBRA](#)
- ◆ [An Employer's Guide to Group Health Continuation Coverage Under COBRA](#)

For copies or to request assistance from a benefits advisor, [contact EBSA](#) electronically or call toll free [1-866-444-3272](#).

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