

# NEW COBRA NOTICES REQUIRED BY NOVEMBER 1

## Health care reform brings changes in COBRA

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A new law designed to increase access to health insurance for employers and employees will have an immediate impact on COBRA administration. The Health Insurance Portability and Accountability Act of 1996 (HIPAA), the first serious health care reform in a decade, contains a number of COBRA revisions. Signed by President Clinton August 21, the majority of insurance changes take effect next July 1. **Notification of those who have elected COBRA, however, is required by the first of November 1996.**

The reform legislation hopes to eliminate "job lock," a situation that develops when employees cannot afford to leave a job because of a pre-existing medical condition. It also seeks to guarantee access to individual coverage for a person leaving the group if they meet certain criteria. Under HIPAA, COBRA will continue to play a prominent role in this transitional process. Provisions in the bill call for individuals to exhaust, or not be eligible for COBRA as a condition of guaranteed access.

Specific areas of COBRA administration affected by the new law include:

### DISABILITY EXTENSION

Currently, a person who applies for a disability extension of COBRA (11 months) must be deemed disabled under Title II or XVI of the Social Security Act back to the time of the qualifying event. Under HIPAA, the qualified beneficiary may be deemed disabled at any time during the first 60 days of continuation coverage and qualify for a total of 29 months of coverage.

The disability termination event and employee reporting responsibility were also amended to reflect the 60 day extension of eligibility. This change also clarifies that all qualified beneficiaries in the family are allowed to participate in the extension period granted to the disabled person.

Please note the more favorable continuation of coverage under the New Jersey Disability Continuation Act.

An act providing for the continuation of group health insurance benefits for certain disabled persons, and supplementing Title 17H of the New Jersey Statutes, L. 1981, e.422

### QUALIFIED BENEFICIARIES

The new law also creates a new classification of qualified beneficiary. Under the previous law, the only individuals who could be deemed qualified beneficiaries were those individuals (employee, spouse and dependents) covered under the group health insurance plan the day before the actual qualifying event. Under HIPAA, any child born to or placed for adoption with the covered employee after the COBRA event would automatically become a qualified beneficiary when added to the plan within the appropriate time frame.

As a qualified beneficiary, the newborn or adopted child would immediately retain all rights given to the active employees under the group health insurance plan.

### TERMINATION EVENTS

Employers may still terminate COBRA coverage when a qualified beneficiary becomes covered under another group plan which does not contain any exclusion or limitation with respect to any pre-existing condition. It does provide that the exclusion or limitation must not apply to the beneficiary by reasons outlined in the new law.

### CERTIFICATION OF EXPIRATION

In order to waive any period of exclusion for a pre-existing condition when switching jobs, an employee will have to provide PROOF of prior coverage. The employees must not have allowed coverage to lapse for a period of 63 days or longer. The burden of providing that evidence will fall on the employees former employer. The employer will have to certify that the ex-employees coverage under the plan and provide a second statement when COBRA coverage ceases.

### NOTIFICATIONS

Employers will be required to update their COBRA notices a minimum of three times over the next 10 months. Qualified beneficiaries who have elected COBRA must be notified of these changes by November, 1996. Employers will have to change all of their COBRA notices, particularly the Initial and Qualifying Event Notices by January 1, 1997 when the COBRA changes take effect. All affected notices will again have to be updated as early as July 1, 1997 to reflect certification of coverage for the ex-employee.

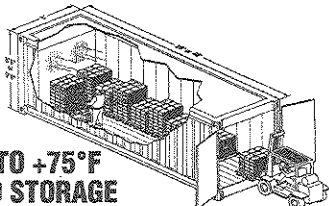
### ENFORCEMENT

Failure to comply with the new mandates in HIPAA could subject an employer to IRS excise tax fines of \$100 per day per beneficiary. The federal government also has the authority to levy the lesser of \$500,000 or 10% of the amounts paid under a health plan for repeated violations of other provisions of the act.

For more information contact COBRA Compliance Systems Inc. 1-800-300-3838 and ask for Gary Hart or Colleen Clearwater. If there is any interest in attending a future seminar on this subject, please contact NJMTA headquarters. The New Jersey Motor Truck Association has arranged discounted fees for members to attend future "COBRA Alert Seminars".

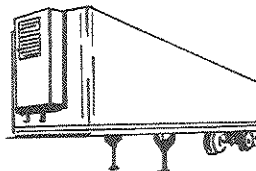
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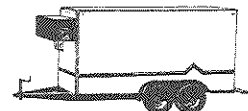
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