

## COBRA Administration Outsourcing

The Consolidated Omnibus Budget Reconciliation Act (COBRA) is a federal law that provides for the temporary extension of employer-sponsored group health coverage for employees and their family members (qualified beneficiaries) in certain situations. COBRA coverage is available when qualifying events occur, such as termination of employment or divorce.

Due to the complexities of the law and potentially serious consequences for mistakes or violations, many employers outsource COBRA administration to a third-party administrator (TPA).

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### Reasons to Outsource COBRA Administration

COBRA's complex rules and requirements, mandatory notices and multiple deadlines can be difficult to follow and administer, whether you are a large company and have many qualifying events to keep track of, or you are a small organization that rarely has to deal with COBRA.

Here's why many companies outsource COBRA administration and why you might consider finding a TPA to handle your COBRA obligations:

- **It's complicated.** COBRA typically applies to employers with 20 or more employees, although how that number of employees is defined can be complicated if you have fluctuations of employee numbers throughout the year or numerous part-time employees. If your company is subject to COBRA, understanding and keeping track of the various requirements can be difficult. You will need to correctly administer things like required notices, election and payment deadlines, late and partial payments, different coverage periods, changes to plan options, address changes and terminations of coverage.
- **It can be costly.** Both the Internal Revenue Service (IRS) and U.S. Department of Labor (DOL) oversee COBRA-related laws. Both the IRS and DOL can levy fines and taxes, including fines of \$110 per day just for the failure to properly issue COBRA notices and requested documents. The risk of missing a deadline for a notice or disclosure is high, especially if you don't deal with COBRA frequently. In addition, you run the risk of individuals suing you for COBRA mistakes. Employers that do not administer COBRA coverage correctly can also be held responsible for paying individual health claims for qualified beneficiaries.
- **It's time-consuming.** The knowledge and expertise needed to properly administer COBRA requires extensive training. Combined with the time expended by internal HR employees to actually administer COBRA, the amount of training necessary is often disproportionate to the number of qualifying events. COBRA administration can be stressful and time-consuming, and dealing with COBRA in-house is often an inefficient use of HR's time and resources. On the other hand, if your company experiences high employee turnover or numerous qualifying events, you could be overwhelmed by the amount of work required by COBRA, taking away valuable time from other essential duties.

Due to the complexity of COBRA, the high risk of fines, taxes and lawsuits, and the inefficient use of HR's time and effort, COBRA administration is a prime candidate for outsourcing.

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### Considerations When Choosing a COBRA Administrator

If you do choose to outsource COBRA administration to a TPA, you will want to consider a few qualities as you choose a TPA.

- **Compliance expertise.** COBRA compliance depends on the prompt implementation of federal guidelines and regulations that stipulate what needs to be done and when it must be completed. Check that your TPA is well-respected for its expertise, follows written procedures and includes independent monitoring to ensure full compliance with COBRA regulations.
- **Technological advancement.** Generally, you will want to find an organization that is well-equipped with technology to handle on-time electronic delivery of all the required notices and letters. A good technological system will streamline the COBRA compliance process and provide proof that all deadlines were met. In addition, the system should be secure and encrypted to protect the privacy of information.
- **Customer service competence.** Assessing the TPA's level of customer service is also important. Having a good TPA can protect your company from having to deal with disgruntled ex-employees. Also, good customer service from your TPA will reduce the incidence of employee complaints about how COBRA is being handled.
- **Legal accountability.** Another important consideration is the indemnification protections provided in the contract. Although a TPA will never be able to take on all legal risk of COBRA administration, it should stipulate in the contract that the TPA takes financial responsibility for its own mistakes. Of course, if you fail to notify them when an employee is

terminated or reports another qualifying event, you will be responsible for the COBRA noncompliance, but a good TPA will relieve you of at least some of the risks associated with COBRA.

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## **Logistics of COBRA Outsourcing**

After you have decided to outsource COBRA administration and have chosen a TPA, you will enter into a contract with them. As mentioned above, it is extremely important to review the indemnification process and make sure that your company is protected from the TPA's mistakes. After all, this is probably one of the main reasons you are outsourcing COBRA administration—to cut down on the financial risk resulting from any mistakes.

Although many TPAs are similarly priced, there are often two choices for how you can pay fees. Typically, you will either pay a flat fee per qualifying event or a monthly fee per eligible employee. Companies with low turnover will likely prefer the fee per qualifying event, whereas you might choose the monthly fee per eligible employee if you have high turnover or want to predict your COBRA administration-related spending more closely.

When outsourcing COBRA administration, you will also need to designate someone to serve as a liaison between your company and the TPA. This person will ensure that all qualifying events are communicated to the TPA, will field any complaints about the TPA from COBRA-qualified employees, and will address any other concerns or communication regarding COBRA administration.

For more information on COBRA administration, contact Fusco Orsini & Associates Insurance Services today.

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