

Managing COBRA

By Art Brooks, Hawthorne Benefit Technologies, Inc.

The Consolidated Omnibus Budget Reconciliation Act of 1986, commonly known as COBRA, ensures that coverage is available to employees and qualified beneficiaries who lose group health insurance. Employers with 20 employees or more that sponsor a group plan must give qualified beneficiaries the opportunity to continue health coverage at their own cost, for 18 months or more, given a "qualifying event," which would otherwise prevent them from having coverage. A qualifying event may include employment changes, divorce or separation, child ceasing to be a dependent, leave of absence, eligibility for Medicare, termination, resignation, court order, entrance into the military and other causes.

While most HR managers would agree that COBRA provides individuals and their families with much needed coverage during a time when they may most need it, they would also acknowledge that managing the required paperwork and timing of announcements surrounding COBRA can be a nightmare. To manage it, HR managers must identify qualifying events that occur for all employees, flag each event, trigger a notice or action to comply for each and set up reminders for ensuing notices that must follow for every step in the COBRA management process.

Sticky notes, spreadsheets, alarms-oh my!

From the initial notice, to the election notice, to the form for COBRA coverage, HR managers must ensure that they provide the right paperwork to employees and dependents, during the right timeframe via a "good faith manner that is reasonably calculated to ensure actual receipt of the material."

Add on top of that changing legislation. Last year, new laws set minimum standards for the content and timing of COBRA notices-expanding information in the initial notice to include an explanation of the importance of keeping the plan, setting requirements and procedures for qualified beneficiaries providing notice of a second qualifying event, and a statement that the notice does not fully describe continuation of coverage and rights, amongst others-to ensure consistency in communication prior to individuals entering a plan. For many HR managers, managing

it all means maintaining a morass of sticky notes, spreadsheets and calendar alarms-which may not always be reliable.

It is not surprising then that many companies that can afford to, or that have a high enough turnover, outsource COBRA administration altogether.

Still, even in this case, the liability usually rests predominantly on HR managers and their companies to comply, and financial penalties and legal action can result if non-compliance is found. (Occasionally Third Party Administrators may take on a part of the liability if negotiated up front.) Both the Department of Labor (DOL) and the IRS can assess tax penalties for COBRA violations for employers and plan administrators who fail to properly implement federally mandated procedures. Each of these organizations has authorization to independently assess penalties and follow their own rules for setting amounts, depending on the type, duration and willfulness of the violation. Companies may be fined an excise tax of \$100 per affected employee for each day that the violation continues, and plan administrators who fail to provide required COBRA notices to employees may be personally liable for a civil penalty of up to \$100 a day for each day, or more, if the notice is not provided.

Brokers can be a valued asset in making sense of it all.

Given the huge tracking and administration headache COBRA poses for their clients, and as the "experts" on benefits, providing assistance on managing COBRA can be a natural extension for brokers. And since companies and their employees-dealing with rising health care costs, predicted to go up another 15 percent or so over the next year-have also come to expect more from their brokers, it is also a good way to provide added value.

Brokers can better understand their clients' needs by staying on top of the changing COBRA laws. To truly assist clients in this management challenge, seminars, licensing and continuing education can help brokers to get up to speed. Additionally, Web sites such as that from the Employee Benefits Security Administration (EBSA) at www.dol.gov/ebsa can provide a wealth of information and resources to help clients.

EBSA was founded to educate and assist the 150 million Americans covered by 730,000 private retirement plans and six million private health and welfare plans and plan sponsors and members of the employee benefits community.

Information from these sources can provide good fodder for newsletters and alerts to clients to keep them abreast of the changing legislation surrounding COBRA. They can also be used in educating clients about developing written procedures that will help to protect them.

In addition to providing updates, brokers can offer many different levels of support for their clients in administering COBRA—from providing more administrative and consulting services, to helping to streamline processes and increase efficiency, offering to audit and help manage COBRA's strict compliance process, providing staff to enable clients to completely outsource or offering tools for COBRA management.

For companies contemplating outsourcing or managing COBRA in-house, brokers can serve as the experts making recommendations on which process might be best given the client's current situation, as well as offering their own people to manage COBRA and/or ensure compliance.

For those for whom outsourcing is not an option due to size or pricing considerations, brokers can provide the tools and knowledge these companies need to manage their plans effectively.

Whether offering software to clients to use, or using it in-house to provide services to manage COBRA benefits, having the right tools can greatly simplify the process. Software based on the most recent COBRA law eliminates much of the process of having to stay on top of all of the intricacies of emerging law. Brokers should also look for these important aspects in offering their clients, or using, automated solutions for managing benefits:

- An easy, intuitive point-and-click interface that ensures that HR managers will be able to instinctively manage plans for employees and their dependents, versus leafing through manuals every time a change must be made.
- The ability to print and track initial notifications, election notices, COBRA termination notices and premium notices for billing continuants, according to COBRA guidelines.

- The ability to automatically customize and print notices with employee, dependent and company-specific information, including what the employee and his or her dependents initially elected and can now elect.
- The ability to print separate COBRA notices to spouses and/or dependents, in cases where they live at different addresses from the employee, as dictated by the COBRA law.
- Reporting and tracking capabilities that let managers quickly see the current status of employee eligibility and required actions, as well as track compliance.
- The ability to set automatic alerts to let managers know when important deadlines are forthcoming.
- And, perhaps most importantly next to compliance, ensuring that the system is tied to a real-time benefits database, versus requiring that data be shipped in and entered. Given the fast pace of turnover and changing employee status, and the status of their dependents, a real-time database is necessary to determine who has received which notices, at which stage individuals are in the process and when they may be terminated from COBRA based on initial qualifications.
- Finally, the ability to manage all benefits and plans through a single system is also a valuable benefit to provide clients, and can often be obtained cost-effectively or the cost can be passed on to the client.

In conclusion, managing COBRA can be a complicated, detail-oriented process for HR managers and their companies; it can be easy, yet very dangerous, to overlook important information and requirements. Having a trusted partner to help HR managers make sense of it all and that can also provide the tools to help them succeed, can make all the difference in helping companies to protect themselves and ensure a smooth process overall. For brokers, it is also a way to build relationships as a trusted partner.

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