

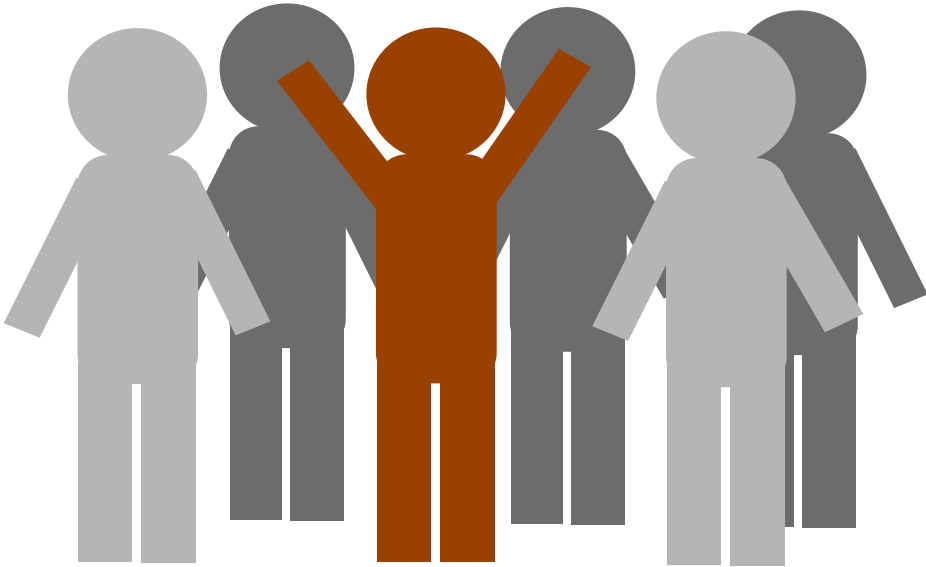


COBRA

Open Enrollment

THE COMPREHENSIVE GUIDE

THE OFT-FORGOTTEN



For most Benefits and Human Resource professionals there's a certain time of year that's unequivocally busier and more demanding than the rest: Open Enrollment season. From shopping and purchasing benefit packages to distributing, explaining, and enrolling employees, the to-do list can be overwhelming. With so much going on it can be easy for certain things to get overlooked. Perhaps nothing more so than COBRA participants. When it comes to plan renewals, most employers are so focused on their current employees, their COBRA participants are an afterthought.

That can certainly be an issue considering the COBRA law states that COBRA qualified beneficiaries are entitled to the same rights under a group health plan as are similarly-situated non-COBRA Beneficiaries. To be compliant, it's important that employers, brokers, and TPAs remember to recognize notified and enrolled COBRA participants as if they are active employees during Open Enrollment.

WHO IS ENTITLED TO COBRA OPEN ENROLLMENT?

A COBRA QB that would be entitled to open enrollment would be any participant who is still within their 60 days to elect COBRA and any currently enrolled COBRA participants whose COBRA eligibility extends beyond the plan renewal date.

WHAT ARE THEIR RIGHTS TO OPEN ENROLLMENT?

- Sent Open Enrollment Materials with plan summaries and rates
- Given ample time to make an election
- Allowed to add, drop, or change a coverage or plan
- Allowed to add or remove dependents
- Able to select a plan without limits or exclusions from coverage for preexisting conditions

WHO IS RESPONSIBLE FOR OFFERING COBRA OPEN ENROLLMENT?

COBRA open enrollment is always the responsibility of the employer whose group plan(s) are going through renewal. Even if the group has a third party vendor, ultimately it is still the employer's responsibility that they communicate with their TPA on who will be handling the COBRA Open Enrollment.

OPEN ENROLLMENT MATERIALS



Open Enrollment is the only time a COBRA participant can change plans or add coverages they didn't previously have while on COBRA. It's also the only time that a COBRA participant can add a dependent outside of getting married or having a newborn/adopting a child. Since they only get the opportunity once a year, it's essential that they are included in the Open Enrollment process.

- The plans being offered to COBRA QBs should be the same plans offered to actively insured employees.
- The rates for the plans should reflect the full monthly COBRA premium (2% included) for every tier of coverage for every plan .
- Plan summaries explaining coverage and benefits should be made available for all plans.
- Provide beneficiaries with a clear explanation as to why they are receiving open enrollment materials and a reasonable due date to submit their election
- Materials should be mailed via certified mail to the last known address
- Participants should be given a minimum of 30 days to make an election

ADDITIONAL THINGS TO CONSIDER

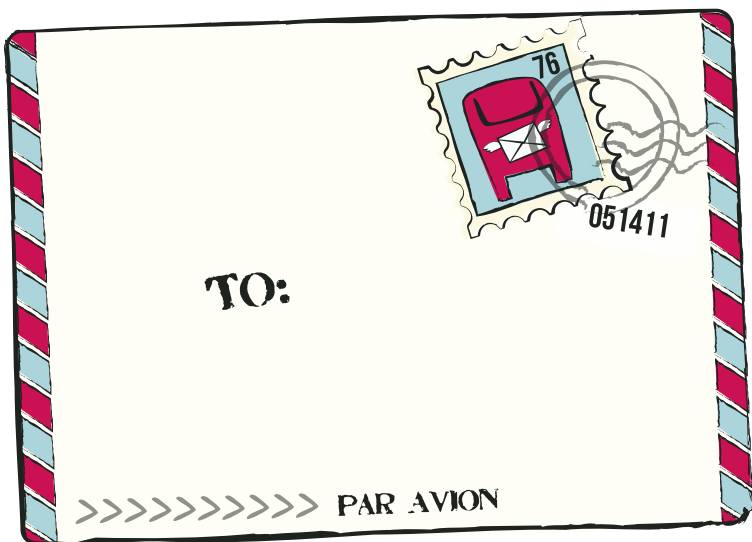
Summary Plan Description (SPD)

Along with a cover letter explaining the complete open enrollment procedures, the insurance rate sheet, and an enrollment form, plan summaries should also be sent. What can be confusing to employers, TPAs, and plan administrators is differentiating what is required under COBRA versus ERISA. Most notably, ERISA mandates that a Summary Plan Description (SPD) be provided to all participants on a plan whenever there is a new enrollment or a plan modification. However, there are no provisions under COBRA that state that including the SPD in the COBRA open enrollment materials is a requirement. Thus employers and TPAs should plan accordingly when sending out COBRA open enrollment materials to their existing plan participants.



ADDITIONAL THINGS TO CONSIDER

Delivery Method



In this day and age nearly everything is moving away from paper deliver methods and into electronic distribution. Nevertheless the materials must be delivered in a way that is *reasonable for all recipients*. With that in mind, in the world of compliance, snail mail is still king. Perhaps in the future it will be reasonable for all recipients to receive electronic distribution, but we're still far off from making that assumption without risk of penalty.

Therefore the cover letter, rate sheet, and election form should be mailed with proof of mailing. As for the plan summaries, as long as they aren't intended to satisfy SPD requirements, they can be distributed electronically as long as it's made evident on the cover letter how those summaries can be accessed and that paper copies can be sent if requested.

Administrative Tips and Best Practices

Employee Open Enrollment Changes: Plan admins should not let employees drop dependents, even during Open Enrollment, without the employee providing in writing the reason for the change. If an employee drops their spouse in anticipation or in conjunction with a divorce or legal separation, the spouse would still have the right to elect COBRA.

Changing Carriers: If a company decides to change carriers it's even more imperative that open enrollment elections are sent out in a timely matter. Typically there's a much longer processing time for enrolling a participant with a new carrier and creating a new member ID for them than if the company stayed with the same carrier. Furthermore, Open Enrollment election forms when changing carriers need to be more detailed - the DOB, SSN, gender, address, and relation for all dependents will almost always be needed when switching carriers.

Section 125 Medical Plan (FSA): If an employee has a COBRA Qualifying Event they can elect to continue the use of their Section 125 medical plan for the remainder of the plan year. However it should be noted that FSAs for COBRA participants cannot be renewed during Open Enrollment, nor should not be offered during Open Enrollment.



Administrative Tips and Best Practices

(continued)

Age Rated Plans: Aged banded plans during open enrollment can be more tricky than fixed rate plans. Whereas for fixed rate plans, the monthly cost plus the 2% admin fee can be simply displayed on the election form - for Age Rated plans, the age rate grid with an explanation of how to calculate the COBRA premium will need to be included.

TPAs: For companies that have a third party COBRA vendor it should be communicated ahead of renewal how the COBRA open enrollment is going to be administered. If its agreed upon that the vendor will be sending out open enrollment materials it is still the company's responsibility to ensure they meet the ERISA requirements (i.e. provide the correct SPD to the COBRA participants).

State Extension - CA, CT, NY, & TX: There are four states that offer a COBRA Extension, however only the medical can be extended on COBRA. If a participant is on a state extension in one of these four states, they should not be allowed to elect any benefits besides the medical.



Q and As



What if we forgot to do COBRA Open Enrollment and the plans renewed already? As with most things in the realm of HR compliance, it's still better to do it late than not at all. Participants should still be contacted and made aware of their rights to Open Enrollment.

What if an enrolled participant doesn't send back their OE election? If the plan(s) the participant is on doesn't change, then their coverage should roll over into the new plan year and they should be billed the new plan year's premiums. If the carrier or plan(s) they are on are changing and they never sent in an election, then if additional efforts to contact them about OE fail, they should be billed for the plans that replaced the coverages they had. If they send in payment, enroll them. If not, they'll term for non-payment as of the renewal date.

What if a participant's COBRA effective date is the same as the plan renewal date? If a participant's COBRA effective date is the same as the new plan year, then they should be sent both a COBRA Election Notice, as well as Open Enrollment materials.

If a COBRA participant's premiums are being paid for by the group as part of a severance agreement, do they still get to elect any plan during Open Enrollment? Yes, unless otherwise specified in the terms of the severance, the participant can elect any plans an active employee can elect during Open Enrollment

If a participant initially elected dental and medical, for example, on COBRA, and then voluntarily dropped the dental, can they re-elect the dental coverage again during Open Enrollment since they already dropped it before? Yes - A participant can drop a coverage at any time on COBRA, but the only time they can add a coverage is during Open Enrollment, even if they had previously dropped that same coverage prior to Open Enrollment.

RESOURCES TO GUIDE YOUR HR TEAM



WEBSITE

Our website hosts a library of insightful resources at your disposal.



BLOG

We publish insightful posts regularly, not just about COBRA, but about all things HR, benefits, and business related.



NEWSLETTER

Client or not, be sure to sign up for our newsletter to make sure you are staying current and relevant in the HR industry



LIVE EXPERTS

Have a compliance question? Need some advice? Or if you just want to chat, that's fine too. Give us a call!





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