



UBA
Compliance Advisor

What every HR leader should know about compliance



Updated Department of Labor Model COBRA Notices

The Department of Labor (DOL) released updated Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) model notices and [frequently asked questions](#) (FAQs) providing general information on the updated model notices. The FAQs note that the DOL provides a model general COBRA notice and model COBRA election notice that plans may use to satisfy the requirements to timely provide both of these notices to qualified beneficiaries. The DOL has updated these model notices to ensure that qualified beneficiaries have a better understanding of the interactions between Medicare and COBRA.

The updated model notices can be found on the DOL's [COBRA Continuation Coverage webpage](#). The updated model general COBRA notice is also contained in our UBA [Sample Open Enrollment Notices Packet](#).

The FAQs note that an individual who did not enroll in Medicare because he or she was still employed and had employer-sponsored coverage, can enroll in Medicare after his or her employment terminates and employer-sponsored coverage is lost. In general, if an individual does not enroll in Medicare Part A or B when he or she is first eligible because the individual is still employed, after the Medicare initial enrollment period, the individual has an eight-month special enrollment period to sign up for Medicare Part A or B, beginning on the earlier of: 1) the month after the individual's employment ends; or 2) the month after group health plan coverage based on current employment ends. The FAQs provide that there may be advantages for an individual to enroll in Medicare before, or instead of, electing COBRA. Delaying Medicare enrollment and instead enrolling in COBRA may subject an individual to a Medicare Part B late enrollment penalty and may create a gap in coverage if the individual seeks to enroll in Part B later. If an individual elects COBRA and later enrolls in Medicare Part A or B, the employer-sponsored plan may be able to terminate COBRA coverage. However, if Medicare Part A or B is effective on or before the date of the individual's COBRA election, an employer cannot terminate COBRA due to Medicare entitlement.



The FAQs provide that if an individual is enrolled in both COBRA and Medicare, Medicare will generally pay first and COBRA will pay second. Certain plans may pay as if secondary to Medicare, even if an individual is not enrolled in Medicare. The FAQs do not address the administrative complexities resulting from COVID-19 related leaves and continued health insurance eligibility.

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You should not act on this information without consulting legal counsel or other knowledgeable advisors.