

Q: Since most carriers are allowing people to remain on the plan even when hours are reduced below the minimum requirement during the crisis and they don't lose coverage, the reduction of hours in this case would not be a QE, correct?

A. Correct. A COBRA offer is required when an individual experiences a specified Qualifying Event (QE) and the QE causes a loss in coverage. In your example, the Reduction of Hours does not cause a loss of coverage for the employee, so the employer would not offer COBRA continuation to him/her.

Q: What is the standard Federal Grace Period?

A. Federal COBRA provides QB's a 45-day initial Grace Period at election and then a 30-day Subsequent Grace Period for ongoing payments. However on April 29, 2020, the Departments of Labor and Treasury jointly issued immediate relief by temporarily extending certain statutory deadlines for QB's, including Payment Grace Periods. Initial Premium Payments are due 45 days after the end of the Outbreak Period, and Subsequent Premium Payments are due 30 days after the end of the Outbreak Period. The Outbreak Period began on March 1st and will end 60 days after the National Emergency end date (or a later date announced in subsequent guidance).

Q: I have several agents not able to make today's call. Will it be recorded and easily accessible?

A. Yes! The recording is available at <https://support.primepay.com/s/article/4-23-20-PrimePay-Recorded-Webinar-COVID-19-Update-Avoid-These-Common-COBRA-Compliance-Mistakes>

Q: If temporary layoff or a Qualifying reduction of hours triggers the COBRA Event, is employee eligible to be reinstated once his/her employment is back to normal even if they did not elect COBRA?

A. Yes, assuming the reinstated employee meets the employer's Group Health Plan eligibility requirements. The employer's policy will determine if the employee's prior elections will be reinstated or if the employee will be required to make new elections. Because the employee did not opt to continue coverage under COBRA, s/he will have a break in coverage.

Q: Proof of Mail?/OR Does it need to be certified? How do you get proof of mail?

A. If a Qualified Beneficiary sues the plan administrator for failing to offer COBRA coverage, the plan administrator must prove that the election notice was sent to the QB's last known address by a method that is reasonably calculated to reach the QB. The plan administrator should retain copies of the COBRA election notice sent to the primary QB and any dependent QBs and the notice should bear the QBs last known address. Additionally the plan administrator's records should prove that that notice was mailed to the QB's last known address on a particular date. The plan administrator could obtain a proof of mailing from the post office, or it may document the mailing in its business records. The plan administrator must only prove the COBRA election notice was mailed to the last known address and not that it was delivered.

Q: But aren't you not eligible for COBRA once you are eligible for Medicare?

Our guidance is designed only to give general information on the issues actually covered. It is not intended to be a comprehensive summary of all laws which may be applicable to your situation, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion. Consult your own legal advisor regarding specific application of the information to your own plan.

A. The timing of the COBRA and Medical enrollment determines COBRA eligibility. If the individual was entitled to (i.e. eligible for and enrolled in) Medicare prior to losing group health coverage due to a specified Qualifying Event, then the individual is eligible to elect COBRA while enrolled in Medicare and their COBRA maximum coverage period is not affected by their Medicare enrollment. But if the individual enrolls in COBRA and subsequently enrolls in Medicare, then the COBRA coverage period may be terminated early.

Q: But if the reduction of hours is below the eligible criteria (30 hours) that could trigger a QE or the EE could continue if the carrier agrees, right?

A. If the Reduction of Hours (RH) causes a loss of coverage, then the employee has the right to continue coverage under COBRA. But if the carrier/plan administrator modifies eligibility rules so the RH does not cause a loss of coverage, then the employer would not make a COBRA offer. The plan should have a written policy in place for current reduction in hours/furloughed employees. This would prevent any future confusion or employee relations issues if they experience such an event.

Q: Thanks. So if you ELECT medicare, your Cobra goes away?

A. Yes. If an individual enrolls in Medicare after enrolling in COBRA coverage, then the COBRA coverage period may be terminated before the end of the maximum coverage period.

Q: When reducing employee hours of employees with current benefit coverage, don't we still have to consider the look-back period? We use the 12 month look-back.

A. Yes, if an employer utilizes the look-back methodology for variable hour employees, that employer may not terminate an employee's coverage while they are considered full-time in a stability period. For more information on variable hour employees and COBRA coverage, please see our support article: <https://support.primepay.com/s/article/HR-Compliance-Common-Employment-Questions-to-Consider-During-COVID-19-Outbreak>

Q: If the EAP plan is included as a package with Dental, Life, Ltd, etc.. They cannot just elect the EAP. So how would that work?

A. Assumption: Active employees have EAP coverage only if they enroll in the benefit plan which includes EAP. If EAP is bundled with another COBRA-covered benefit such as Dental, then the individual must elect COBRA dental coverage to have EAP coverage. Life and LTD are not Federally-mandated COBRA benefits but most likely have portability/conversion rules.

Q: We have a husband and wife both on our payroll (normally) but the husband is temporarily unemployed, as he cannot work from home. Their health benefits are set up with him as the main insured with her just added as a spouse. Do we need to change the covered employee to her & add him OR would he go on Cobra? Should we say he is furloughed to continue with his coverage (instead of saying he is laid off)?

A. The husband has experienced a Termination event and lost coverage as a result of it, and therefore he has COBRA continuation rights (assuming the employer is subject to Federal COBRA rules). At the same

Our guidance is designed only to give general information on the issues actually covered. It is not intended to be a comprehensive summary of all laws which may be applicable to your situation, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion. Consult your own legal advisor regarding specific application of the information to your own plan.

time, most employer's Cafeteria Plans permit mid-year election changes if an employee experiences one of the IRS permitted election changes. The husband's termination would be considered a change in status by the IRS, and the wife's employer's Cafeteria Plan could allow the employees to enroll mid-year on account of the change in status

Q: Must we collect employee contributions for health insurance now or can we collect in installments later when they return to work?

A. The employer may decide to require furloughed employees to make ongoing premium payments or the employer could allow furloughed employees to make up premium payments upon their return to work. This information should be covered in their HR policy and they should offer the payment options in their written policy to employees on leave. However if the employer does not require premium payments during the furlough period and also does not recall the employee as planned, then the employer will be responsible for the employee's full premium payments during the furlough period.

Q: I use Wageworks. They have instructed me that is it okay to add a participant when they are terminated and then to go back in and create a QE to send out the Cobra documentation. After today's webinar, I have a feeling this is wrong. Can you please offer your opinion? Thank you.

A. We will follow up with you to better understand the situation.

Q: How long can an employee be on reduction on hours before COBRA is triggered

A. The trigger is the loss of coverage. If the carrier/plan allows EEs whose hours are reduced to retain coverage for a period of time (whatever the period) and that period ends and they are unable to work the required # of hours (for whatever reason) then they would lose coverage and trigger an QE of Reduction in Hours.

Q: Can you please cover again the difference between Furloughs, Layoffs, & Reductions in Force

A. A furlough is a short-term unpaid leave of absence, and the furlough duration may last a few weeks or up to a few months. Furloughed employees retain their position and may retain benefits, subject to the insurance carrier contracts and employer's HR policy. A Layoff is a temporary separation of employment, and the employer intends to recall laid off employees in a few weeks, months, etc. Typically employees lose their benefits during a layoff. With a Reduction in Force, the employer eliminates the position and does not intend to recall the employee.

Q: What if for whatever reason the employer did not enter their employee when they were initially hired. Could they still use this spreadsheet and include any employees that may have not been initially entered in the portal.

A. Yes, a COBRA client may use our new QB Simple Import template to load these Qualified Beneficiaries to PrimePay's COBRA Portal.

Our guidance is designed only to give general information on the issues actually covered. It is not intended to be a comprehensive summary of all laws which may be applicable to your situation, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion. Consult your own legal advisor regarding specific application of the information to your own plan.

Q: If an employee waives coverage, is the initial rights notice required.

A. If the employee waives participation in all COBRA eligible coverage, then the employer is not required to furnish him an Initial Rights Notice. The employer must furnish an Initial Rights Notice if the employee enrolls in a COBRA-covered plan in the future.

Q: If we are now able to bring back staff because we have been approved for the Payroll Protection Plan but I have already triggered the COBRA event, can I go back and reverse that and essentially not have any loss of coverage?

A. PrimePay is not able to answer this question without additional information.

Q: What happens if an employee who is furloughed and the company has agreed to pay the premiums and then collect on the back end when they return to work. If there are employees who decide they want to drop coverage all together and not have the insurance anymore, would that trigger a qualifying event since they are voluntarily dropping coverage during the this period.

A. Assuming the employer's cafeteria plan allows an employee to make a mid-year election change due to the status changes, then the employee would be permitted to drop benefits upon starting the furlough period. This would not be a COBRA qualifying event because it is a voluntary loss of coverage.

Q: Brooke - Did you just say if there is a divorce situation, and the EE drops soon to be ex during OE, the ER still has to offer the "ex" COBRA? How would a larger ER even know this was the case?

A. Typically the employer learns of the situation when the now-former spouse inquires about his/her COBRA election packet. An employer will need to offer COBRA when an employee drops his/her spouse's coverage in anticipation of the Divorce qualifying event.

Q: Does Proof of mail mean it has to be sent certified?

A. No, COBRA letters do not need to be certified. The Proof of Mail requirement can be fulfilled in other ways.

Q: If an employee subsidizes an employee's COBRA, is a Form 1095 necessary?

A. Yes

Q: Is there a difference in how COBRA is applied to Hourly Earning Employees vs Salary Employees

A. Hourly employees have the same COBRA continuation rights as salaried employees. But an employer may administer a hourly employee group health plan and a salaried employee group health plan and maintain different rules on when coverage terminates. For example, hourly employees' coverage may terminate on the event date and salaried employees' coverage terminates at the end of the month.

Our guidance is designed only to give general information on the issues actually covered. It is not intended to be a comprehensive summary of all laws which may be applicable to your situation, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion. Consult your own legal advisor regarding specific application of the information to your own plan.

Q: Will the presentation slides be made available for post-webinar review and to save as a resource guide? Where can we access the import template?

A. Yes. The QB Simple Import template will be available at support.primepay.com.

Q: Does recall to active employment status require sending an Initial Notice Letter?

A. If the employee lost coverage, then a new IRN is required upon re-enrollment. But if the employee remained eligible, then a new IRN is not required upon re-enrollment.

Q: Can you explain the EAP having to be COBRA qualified?

A. Depends on the EAP and whether it provides a medical benefit. And plan that is: 1) Sponsored by an Employer and provides a Medical Benefit is COBRA eligible. An EAP that provides legal or financial advice/support for free or a discount would not qualify. An EAP that provides mental health/counseling services for free or at a discount would qualify.

Q: When recalled from layoff and doesn't elect COBRA, is new waiting period imposed?

A. Typically if an employee is terminated and rehired within 30 days, they are required/allowed to 'step back' into their elections before they were terminated. The employer cannot impose a new waiting period.

Q: Can an employer subsidize COBRA for employees?

A. Yes. PrimePay's COBRA Portal can accommodate Subsidies of any type or duration.

Q: What would be considered proof of mail? Does it have to be certified or can that just be a receipt?

A. The plan administrator could obtain a proof of mailing from the post office, or it may document the mailing in its business records. The plan administrator must only prove the COBRA election notice was mailed to the last known address and not that it was delivered.

Q: If the newly hired employee declines medical coverage, do they still get an initial rights notice?

A. If the employee waived ALL COBRA eligible coverage, then s/he would not receive an Initial Rights Notice (IRN). If this hypothetical employee waived Medical but elected Dental, then the employer must furnish an IRN.

Q: We have carriers in Arkansas that are allowing carriers to cover employees with active coverage without offering COBRA. Can they use your premium billing solution to collect premiums for active coverage?

A. Absolutely!

Q: Not sure if I have the coverage procedure manual? Can I request one?

A. Please contact our Client Success Team at benefitsuccess@primepay.com.

Q: Now I have a bunch of questions, is there an email address that I can send my questions too?

A. Please contact our Client Success Team at benefitsuccess@primepay.com.

Q: Insurance carriers are also allowing companies to keep their furloughed and laid off employees on the benefits

A. No question.

Q: Going back, can you please discuss how carriers are allowing laid off and furloughed employees to remain on coverage as active yet you are saying they should be placed on COBRA. Please discuss

A. Furloughed employees are not considered terminated, so they may remain on active benefits if the eligibility provisions provide for this coverage.

Q: Why would you lay-off instead of furlough if you are planning to bring the employee back? The cost of benefits I'm assuming?

A. A furlough is typically for a short but fixed period of time. A layoff is for a longer and possibly indefinite period.

Q: Please answer how and Why an employee would elect pay 102% of the HRA employer contribution? Would the employee legally waive the FSA and HRA so they do not have to pay more than the reimbursement amount?

A. Health FSA's and HRA's are employer-maintained group health plans and subject to COBRA unless otherwise exempt. If an employee is covered by a Health FSA or HRA and loses coverage due to a specified event, then the employee has the right to continue coverage under COBRA. A QB maintains COBRA coverage on a month-to-month basis, and a QB may cancel a benefit during his/her COBRA entitlement period. If QB had a medical care scheduled within one month of enrolling in COBRA coverage, then s/he could continue HFSA or HRA coverage for one month and cancel for the subsequent months. Most employers integrate (i.e. package) the HRA with a high deductible medical plan in order to meet health care reform requirements, thereby providing the HRA benefit only to employees enrolling in the group medical plan. These employers may bundle the HRA and Medical plans for COBRA administration, and QBs would be required to elect both plans if they chose to continuation coverage. The HRA COBRA premium is not necessarily equivalent to the employer HRA contribution because it is based on the utilization of the prior years plan, not solely on the maximum benefit amount.

Q: Can we pay bonus and or tips with the PPP loan or even Hazard pay

A. Under the PPP, payroll costs may include salary, wages, commissions or tips (capped at \$100,000 on an annualized basis for each employee). For more information about the PPP, please see our support site: <https://support.primepay.com/s/article/CARES-Act-Paycheck-Protection-Program>

Q: For the Health FSA, that would include LPFSAs as well, correct?

A. Yes. A Limited Purpose FSA is a variation of a Health FSA; same rules apply.

Q: If carriers are offering a Benefits Exception and allowing furloughed or laid off employees the option of staying on the group health plan as long as premiums are paid, it is not necessary to offer COBRA, correct? If not, in what situation would an employer be required to offer COBRA?

A. Correct. A COBRA offer is required when an individual experiences a specified Qualifying Event (QE) and the QE causes a loss in coverage.

Q: At what point is an Employer required to distribute the Initial Rights Notice when meeting the 20 employee threshold for the first time? Is it at the time the 20th employee is hired or should it be distributed at the next group health renewal?

A. A plan is subject to COBRA for any calendar year that all employers maintaining the plan employed 20 or more employees on a typical business day during the preceding calendar year. An employer meeting the COBRA requirement for the first time effective Jan. 1 must distribute Initial Rights Notices to all covered plan members by March 31st (90 days from 1/1).

Q: How would the 2% cobra cost apply if the employer subsidized or paid for the medical?

A. The 2% COBRA administration is part of the COBRA premium. If the employer did not want the QB to pay any portion of the premium, then the employer must include the fee in their subsidy calculation. Most COBRA TPA's retain the 2% administrative fee as part of their fee compensation. The TPA would deduct the 2% administrative fee before remitting premiums to the client. If the client's remittance amount does not cover the full 2% administrative fee, then the TPA would invoice the client for the fee.

Q: While we furloughed employees, do we have to keep paying them to get approval with PPP loans or any other loans because when we submit the number of employees, we included them. If we don't pay them some are concerned that we do not get loan approval.

A. For the full amount of loan forgiveness under the PPP, an employer must keep their workforce at the same level (as calculated based on an earlier point in the year or 2019) during the 8-week period after receiving the loan. For more information about the PPP and loan forgiveness, please see our support article: <https://support.primepay.com/s/article/CARES-Act-PPP-Loan-Forgiveness-Requirements>