

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4411

Date: February 7, 2005 **Code:** TECHNICAL LETTER
HR/Benefits 2005-03

To: Human Resources Directors
Benefits Officers **Reference:** HR/Benefits 2004-28

From: Cathy Robinson, Assistant Vice Chancellor
Human Resources Administration

Subject: Consolidated Omnibus Reconciliation Act (COBRA) Update

Technical Letter HR/Benefits 2004-28 announced final regulations issued by the Department of Labor governing the Consolidated Omnibus Reconciliation Act (COBRA) and provided an updated Administrative Guide and notification forms. This letter provides an update to the Initial (General) COBRA Notice form (specifically, page 19 of the Administrative Guide), which should be replaced with the attached document. Campuses are asked to discard previous versions of the Initial Notice form.

The CSU COBRA Administrative Guide has been revised and is available at: <http://www.calstate.edu/HRAdm/pdf2004/TL-BEN2004-28Guide.pdf>.

Questions regarding this technical letter may be directed to Felice Bakre in Human Resources Administration at (562) 951-4411. This document is available on Human Resources Administration's Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

CR/fb

Attachment

Distribution:

CSU Presidents
Vice Chancellor, Human Resources
Vice Presidents, Administration
Director, SOSS
Payroll Managers

SECTION 13 - MODEL NOTICES

13.1 INITIAL NOTICE

Initial Notice of COBRA Continuation Coverage Rights The California State University Medical, Dental and Vision Plan and Health Care Reimbursement Account Plan

To: Covered Employee [and Spouse/Registered Domestic Partner]
Fr: [EMPLOYER NAME]
Date: [Date]

Introduction

You are receiving this notice because you have recently become covered under the medical, dental, vision and/or health care reimbursement account ("HCRA") plans (collectively, the "Plan") sponsored by The California State University ("CSU"). The Plan has four group health coverages (medical, dental, vision and HCRA), and you may be enrolled in one or more of these coverages. This notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of group health coverage under the Plan. **This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it.** COBRA (and the description of COBRA coverage contained in this notice) applies only to the group health plan coverage offered under the Plan and not to any other coverages or benefits offered under the Plan or by CSU.

The right to COBRA continuation coverage was created by a federal law. COBRA continuation coverage can become available to you when you would otherwise lose your group health coverage. It can also become available to other members of your family who are covered under the Plan when they would otherwise lose group health coverage under the Plan. For additional information about your rights and obligations under the Plan and under federal law, you should contact CSU. You may have additional continuation rights under California State law. See "California Continuation Rights for Certain Qualified Beneficiaries" section of this document.

What is COBRA continuation coverage?

COBRA coverage is a continuation of group health coverage when that coverage would otherwise end because of a "qualifying event." Specific qualifying events are listed later in this notice. After a qualifying event occurs and any required notice of that event is provided to CSU, COBRA continuation coverage must be offered to each person losing group health coverage under the Plan who is a "qualified beneficiary." You, your spouse or your registered domestic partner, and your dependent children could become qualified beneficiaries if they lose group health coverage under the Plan because of the qualifying event. Qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

Who is entitled to elect COBRA?

If you are an employee, you will become a qualified beneficiary if you lose your group health coverage under the Plan because either one of the following events happens:

- Your hours of employment with CSU are reduced, or
- Your employment with CSU ends for any reason other than your gross misconduct.

If you are the spouse of a CSU employee, you will become a qualified beneficiary if you lose your group health coverage under the Plan because any of the following qualifying events happen:

- Your spouse (the employee) dies;

- Your spouse's hours of employment with CSU are reduced;
- Your spouse's employment with CSU ends for any reason other than his or her gross misconduct; or
- You become divorced or legally separated from your spouse. Also, if your spouse (the employee) reduces or eliminates your group health coverage in anticipation of divorce or legal separation, and a divorce or legal separation later occurs, then the divorce may be considered a qualifying event for you even though your coverage was reduced or eliminated before the divorce.

A person enrolled as the employee's registered domestic partner will be entitled to elect COBRA if he or she loses group health coverage under the Plan because any of the following qualifying events happen:

- Your registered domestic partner (the employee) dies;
- Your registered domestic partner's hours of employment with CSU are reduced;
- Your registered domestic partner's employment with CSU ends for any reason other than his or her gross misconduct; or
- Your registered domestic partnership with the employee is dissolved.

A person enrolled as the employee's dependent child will be entitled to elect COBRA if he or she loses group health coverage under the Plan because any of the following qualifying events happen:

- The parent-employee dies;
- The parent-employee's hours of employment with CSU are reduced;
- The parent-employee's employment with CSU ends for any reason other than his or her gross misconduct;
- The parents become divorced or legally separated; or
- The child is no longer eligible for coverage under the plan as a "dependent child."

Sometimes, filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to CSU, and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee will become a qualified beneficiary with respect to the bankruptcy. The retired employee's spouse, surviving spouse, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.

When is COBRA coverage available?

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after CSU has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction in hours of employment, death of the employee, or commencement of a proceeding in bankruptcy with respect to CSU, you do not need to notify CSU of the qualifying event.

You must give notice of some qualifying events

For the other qualifying events (divorce or legal separation of the employee and spouse, dissolution of registered domestic partnership, or a dependent child's losing eligibility for coverage as a dependent child), a COBRA election will be available to you only if you notify CSU in writing within 60 days after the later of (1) the date the qualifying event occurs or (2) the date on which you lose (or would lose) group health coverage under the terms of the Plan as a result of the qualifying event. You must provide this notice in writing to CSU at the [INSERT CORRECT CAMPUS BENEFITS OFFICE LOCATION]. The notice must be in writing and must include information about the employee or qualified beneficiary requesting COBRA coverage and the qualifying event that caused the loss of coverage. In addition, the employee or qualified beneficiary must provide CSU with documentation supporting the occurrence of the qualifying event. Acceptable documentation includes the documents listed below and any other supporting documentation approved by the Plan Administrator:

- divorce or legal separation – a copy of the decree of divorce or separation agreement;
- dissolution of registered domestic partnership – a copy of the dissolution documents; and
- child no longer qualifying as a dependent child – a copy of the driver's license or birth certificate showing the child's age (in the case of the child's becoming too old for coverage), a copy of the child's marriage certificate (in case of the child's marriage) or a letter from an university or institution indicating a change in student status.

If these procedures are not followed or if the notice is not provided in writing to CSU as directed above during the 60-day notice period, you will lose your right to elect COBRA.

Electing COBRA

Each qualified beneficiary will have an independent right to elect COBRA. Covered employees and spouses may elect COBRA on behalf of their children who are qualified beneficiaries. **Any qualified beneficiary for whom COBRA is not elected within the 60-day election period specified in the Plan's COBRA Qualifying Event (Election) Notice will lose his or her right to elect COBRA.**

Qualified beneficiaries who are entitled to elect COBRA may do so even if they have other group health plan coverage or are entitled to Medicare benefits on or before the date on which COBRA is elected. However, a qualified beneficiary's COBRA coverage will terminate automatically if, after electing COBRA, he or she becomes entitled to Medicare benefits or becomes covered under another group health plan (but only after any applicable preexisting condition exclusions of that other plan have been exhausted or satisfied.)

How Long Does COBRA Last?

COBRA coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, the covered employee's divorce or legal separation, employee's dissolution of domestic partnership, or a dependent child's losing eligibility as a dependent child, COBRA coverage can last for up to a total of 36 months.

When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare 8 months before the date on which his employment terminates, COBRA coverage for his spouse and children who lost coverage as a result of his termination can last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus 8 months). This COBRA coverage period is available only if the covered employee becomes entitled to Medicare within 18 months BEFORE the termination or reduction of hours.

Otherwise, when the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA coverage generally can last up to a total of 18 months.

However, COBRA coverage under the HCRA can last only until the end of the year in which the qualifying event occurred – see "HCRA Coverage" section below.

There are two ways in which the period of COBRA coverage resulting from a termination of employment or reduction of hours can be extended. (The period of COBRA coverage for the HCRA cannot be extended under any circumstances.)

Disability extension of 18-month period of COBRA coverage

If a qualified beneficiary is determined by the Social Security Administration to be disabled and you notify CSU and the applicable dental/vision carriers/COBRA administrators in a timely fashion, all of the qualified beneficiaries in your family may be entitled to receive up to an additional 11 months of COBRA coverage, for a total maximum of 29 months. This extension is available only for qualified beneficiaries who are receiving COBRA coverage because of a qualifying event that was the covered employee's termination or reduction of hours. The disability must have started at some time before the 61st day after the covered employee's termination of employment or reduction of hours and must last until at least the end of the time period of COBRA coverage that would be available without the disability extension (generally 18 months, as described above).

The disability extension is available only if you notify CSU and the applicable dental/vision carriers/COBRA administrators as instructed in the Qualifying Event (Election) Notice in writing of the Social Security Administration's determination of disability within 60 days after the latest of:

- the date of the Social Security Administration's disability determination;

- the date of the covered employee's termination of employment or reduction of hours; and
- the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the Plan as a result of the covered employee's termination of employment or reduction of hours.

You must also provide this notice within 18 months after the covered employee's termination of employment or reduction of hours in order to be entitled to a disability extension. The notice must include a copy of the Social Security Administration disability notification letter and must include the information about the covered employee or qualified beneficiary requesting extension of COBRA coverage due to disability.

If these procedures are not followed or if the notice is not provided in writing to CSU as instructed above during the 60-day notice period and within 18 months after the covered employee's termination of employment or reduction of hours, there will be no extension of COBRA coverage due to disability.

Second qualifying event extension of 18-month period of COBRA coverage

If a qualified beneficiary experiences another qualifying event while receiving COBRA coverage because of the covered employee's termination of employment or reduction of hours (including COBRA coverage during a disability extension period as described above), the spouse and dependent children receiving COBRA coverage can get up to 18 additional months of COBRA coverage, for a maximum of 36 months, if notice of the second qualifying event is properly given to CSU. This extension may be available to the spouse, registered domestic partner and any dependent children receiving COBRA coverage if the employee or former employee dies or gets divorced or legally separated, dissolves a domestic partnership, or if the dependent child becomes ineligible under the Plan as a dependent child.

This extension is only available if you follow the notification procedures contained in the Qualifying Event (Election) Notice.

HCRA Coverage

COBRA coverage under HCRA will be offered only to qualified beneficiaries losing coverage who have underspent accounts. A qualified beneficiary has an underspent account if the annual limit elected by the covered employee, reduced by reimbursements up to the time of qualifying event, is equal to or more than the amount of the premiums for the HCRA COBRA coverage that will be charged for the remainder of the plan year. COBRA coverage will consist of the HCRA coverage in force at the time of the qualifying event (i.e., the elected annual limit reduced by expenses reimbursed up to the time of the qualifying event). The use-it-or-lose-it rule will continue to apply, so any unused amounts will be forfeited at the end of the plan year, and COBRA coverage will terminate at the end of the plan year.

If you have questions

Questions concerning your Plan or your COBRA coverage rights should be addressed to the contact identified below. Information about COBRA provisions for governmental employees is available from the:

Centers for Medicare & Medicaid Services (CMS)
Private Health Insurance Group
7500 Security Boulevard
Mail Stop S3-16-16
Baltimore, Maryland 21244-1850

Or you may call 410-786-1565 for assistance. This is not a toll-free number. The CMS website is www.cms.hhs.gov.

Keep your plan informed of address changes

In order to protect your family's rights, you should keep CSU informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to CSU.

Plan contact information

Information about the Plan and COBRA coverage can be obtained upon request by contacting CSU at:

[INSERT CORRECT CAMPUS ADDRESS]

| | |
|-------|------------------------------|
| _____ | [Campus name] |
| _____ | [Office or title of contact] |
| _____ | [Address] |
| _____ | [Address] |
| _____ | [Phone] |

The contact information for the Plan may change from time to time.

California Continuation Rights for Certain Qualified Beneficiaries

If you are enrolled in insured medical or HMO coverage in California, please contact your insurance company or HMO for information about rights, after the expiration of Federal COBRA coverage, to continue coverage in certain situations.

Conversion Privilege After COBRA Terminates. You and your enrolled dependents may be entitled to a conversion policy upon the expiration of COBRA coverage. In the event you do not elect COBRA coverage, you may still apply for conversion to an individual medical policy. If you wish to convert your medical coverage to an individual conversion policy, you must make your application within 30 days from the date your coverage terminates to ensure continuous coverage. If you elect COBRA coverage, you will have the option to convert your medical coverage to an individual policy during the last 180 days of the maximum, 18, 29, or 36 month COBRA coverage period.