

When to Offer COBRA to Employees on Leave



When an employee leaves an organization, barring a separation/severance arrangement, health insurance benefits as an employee will end, and the individual must be offered COBRA. Many employers struggle with how to handle situations where the covered individual is still an employee but is not actively at work because they are on an approved leave of absence.

Employer-provided health insurance generally has requirements that must be met for an employee to be eligible for the benefit. These are usually contained in the plan document or agreement and are communicated to employees in the summary plan document and benefit enrollment materials. The most common requirements include some length of service with the employer and working a minimum number of hours each week. When an employee has a prolonged absence from work, the employee may fall below the minimum number of hours per week required for eligibility. While employees may miss a few days without jeopardizing eligibility, at some point prolonged absence becomes a formal leave from the company. Generally, this occurs after three to five days of continuous absence, and the employee needs additional time off.

A leave is a reduction in hours and is a qualifying event under COBRA. Under the regulations, "a reduction of hours of a covered employee's employment occurs whenever there is a decrease in the hours that a covered employee is required to work or actually works, but only if the decrease is not accompanied by an immediate termination of employment." Therefore, when an employee is placed on a leave, but not terminated, AND this causes the employee to lose coverage under the group health plan, the employee must be offered COBRA. Employers should check their plan documents to understand when an employee will lose coverage during a leave of absence. Some plans allow up to 30 calendar days of leave, while others look at average hours over a month, quarter, or other period of time, and drop coverage when the employee's average falls below the required hours. If the plan does not specify how this is done, employers should check with the plan administrator, their broker, or the insurer for fully-funded plans.



Group Health Plan

Employers who are covered by FMLA are required to maintain group health plan benefits "on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period." There are no federal legal requirements to maintain group health plan benefits under other leaves, such as Workers' Compensation, medical leaves that are not FMLA, personal leaves, and educational or other leaves.

This chart illustrates when health insurance must be maintained:


Type of Leave	Health Insurance Requirements
FMLA	<p>Must maintain health insurance at active employee rate.</p> <p>May require employee to pay normal premium contribution.</p> <p>May end coverage if employee's payment is at least 30 days late and the employer gave a written notice 15 days in advance of coverage ceasing, but must restore employee's coverage upon return from FMLA.</p> <p>Failure to return to work at end of FMLA is a qualifying event for COBRA.</p>
ADA	<p>Must maintain health insurance at active employee rate if qualifies as FMLA.</p> <p>Not required to continue health insurance during unpaid leave which is an accommodation (beyond FMLA period).</p> <p>Reclassification to part-time status as an accommodation is a reduction in hours and may be a qualifying event under COBRA if the employee loses eligibility as a result.</p>
Workers' Compensation	<p>Required to pay medical costs for employee's work-related injuries.</p> <p>Not required to continue health insurance during leave.</p> <p>Must maintain health insurance at active employee rate if also qualifies as FMLA.</p>
Medical or Short-Term Disability Leave (not work-related)	<p>Not required to continue health insurance during leave.</p> <p>Must maintain health insurance at active employee rate if also qualifies as FMLA.</p>
Personal Leave of Absence	<p>Not required to continue health insurance during leave.</p>



Employers may choose to be more generous than the law requires, but should always work with their health plan administrator to make sure that doing so is not a plan violation. For example, some employers choose to continue employees on leave at active employee rates beyond the time required by law. Whenever a company chooses to be more generous, consideration should be given to the company's reasons for doing so and how other similar situations will be handled in the future. The company may want to capture and document the business reason(s) for their actions.

Planning ahead for how to handle group health insurance benefits when an employee is not at work due to an approved leave can make this task easier to handle when the time arrives.

MRA's HR Hotline can help you!

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