

CLIENT ALERT

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10 Myths about COBRA Administration, and why you need an expert to handle your COBRA Administration

MYTH #1 - COBRA Administration is relatively straightforward.

COBRA was enacted in 1986 and has been amended 12 times since then. These amendments required changes to content of the COBRA letters and added new required letters. If you have not changed your COBRA letter to comply with the amendment changes chances are you are out of compliance.

MYTH #2 – It is acceptable to give a newly enrolled employee their Initial Notice of COBRA Rights via interoffice mail.

It is critical that covered dependents understand their COBRA Rights *upon enrollment*, as opposed to when coverage ends. If you are not sending this notice to the employees home and addressing it to all covered members chances are you are out of compliance. In addition, children living at a different address must also receive this letter.

MYTH #3 – Only Medical, Dental and Vision Coverage are subject to COBRA.

Incorrect – HRA Plans are considered COBRA qualifying plans as are FSA plans. There are certain IRS approved ways to calculate the HRA COBRA Premium. FSA is a COBRA qualifying event if the employee has a positive balance. If you are mishandling this you are out of compliance.

MYTH #4 – It is safe to send the COBRA Offer Letter to the person's address on the enrollment form.

Not Necessarily – You must use the person's last known address. It is therefore critical that address changes given to one department are given to all departments and if someone else handles your COBRA administration it is critical that they are given the updated address.

MYTH #5 – A person who is on COBRA and subsequently qualifies for Social Security Disability will always be eligible for the additional 11 months of COBRA

Incorrect – There are specific time frames within which a person must meet the SS Disability definition in order to qualify for the additional time.

MYTH #6 – If the employee is not harmed by a mistake made administering COBRA, there is no penalty.

False – there have been a number of lawsuits won by employees who were not financially harmed by COBRA administration errors. These lawsuits resulted in significant financial penalties paid by the employer.

MYTH #7 – A COBRA participant may be terminated if payment is not made by the end of the grace period.

False – A COBRA participant must *mail* their payment by the end of the grace period. So you must allow for mail time before terminating someone. It is advisable to keep the envelope to prove payment was not mailed in a timely fashion

MYTH #8 – I have no obligation to my COBRA participants at Open Enrollment.

False – COBRA participants must be treated as any other similarly situated employee. This means they get every health plan option that an active employee gets and must be provided with all the required paperwork, including SBC's and rates.

MYTH #9 – My COBRA offer letter is clear on how Medicare eligibility and COBRA interact.

The interaction between Medicare and COBRA is complex and often misunderstood. A person on COBRA who subsequently becomes eligible for Medicare loses all COBRA rights, including Dental and Vision coverage even though these benefits are not covered under Medicare. An employee already on Medicare who becomes COBRA eligible may elect COBRA, but needs to know that COBRA becomes the secondary coverage to Medicare.

MYTH #10 – My broker or consultant handles my COBRA Administration so I don't have to worry. I have a COBRA administrator handling my COBRA Administration so I don't have to worry.

False – COBRA is an employer law and it is ultimately your responsibility to ensure that COBRA administration is done properly. If you have an expert handling your COBRA – you have put yourself in the best position for COBRA compliance. This means that you must be able to rely on their advice, expertise and knowledge in this very tricky field. You must have communication with them to ensure that you understand the timing within which you must notify them of COBRA events and situations where COBRA may or may not apply.

COBRA Lawsuits and COBRA Audits are happening more frequently. If you have concerns regarding your compliance in this area, please contact us.

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