

## What You Need to Know When Your Carrier is Administering COBRA

*July 14, 2005*

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Assisting employers with COBRA administration is a common practice among carriers today. Although some employers find such services appealing, many are unaware of one very important fact: they cannot outsource their accountability for being in compliance with COBRA. According to the law, COBRA is the responsibility of the plan administrator alone, which is typically the employer, and no written agreement or promise can change that fact. Thus, those who are ultimately responsible for COBRA administration must make sure they know exactly what role their carrier or TPA is assuming. This COBRA Tip presents the key issues you must consider when evaluating your carrier's administrative services.

### **The Three Most Common Levels of Service**

The three levels of COBRA services typically offered by insurance carriers are:

1. Billing and premium collection;
2. Administration after COBRA is elected; and,
3. Administration after a COBRA qualifying event.

### **Outsourcing COBRA Premium Billing & Collection**

The most common COBRA related role offered by insurers is the collection of monthly premiums. Although employers are not legally required to send monthly bills to qualified beneficiaries (see [COBRA Billing: Is It Required?](#)), they are frequently delighted to learn that the carrier is willing to shoulder that responsibility. On the surface, it appears that having the carrier bill COBRA participants is a great idea. However, there are many good reasons to think twice before allowing *any* outside entity to handle COBRA premium billing and collection.

### ***Employers Often Assume Too Much***

Employers often assume that their responsibilities regarding a COBRA case end when the carrier begins the premium billing cycle; they believe that the carrier will handle all other COBRA requirements from that time forward. Nothing could be further from the truth.

Unfortunately, carriers sometimes fail to clearly describe the limited role they are actually performing, thereby leading many employers to believe their work is done once COBRA is elected. Worse yet, some employers assume they are no longer responsible for *any* COBRA administration once they authorize the carrier to handle billing. In reality, all administrative accountability remains with the employer/plan administrator.

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## ***Employers are Out of the Information Loop***

Even when employers understand their responsibilities for all other aspects of COBRA administration, they are unwittingly placing themselves out of the information loop when premium collection is handled by the carrier. If the COBRA beneficiary believes the billing contact is the only party they need to communicate with, the employer is placed out of the communication loop and does not receive information critical to the administration of COBRA. In some instances when the carrier handles billing, the employer may not even know when a beneficiary's COBRA coverage terminates. Without having complete and accurate information regarding the status of qualified beneficiaries, the employer cannot possibly be in compliance with COBRA.

## ***Managing Multiple Plans is Inherently Dangerous***

When more than one insurance carrier or HMO is available to employees, the employer is still responsible for receiving some payments from COBRA participants, unless all carriers agree to handle COBRA premium collection. Coordinating premium collection from some carriers and not others is a challenging administrative task that carries a very high risk of error.

## ***Billing Errors Made by a Carrier or TPA May Be Your Responsibility***

Anyone who has dealt with insurance carrier and HMO billing departments knows that they are not COBRA experts. In the absence of a written agreement that places responsibility for billing errors squarely on the shoulders of the third party, you will be held responsible for the results of such errors.

## ***There's More to COBRA Billing than Meets the Eye***

There are many premium collection requirements under COBRA that differ from the regular collection of premiums normally handled by carriers. Unless you are certain the carrier has the capability of handling all the nuances of COBRA premium payment scheduling and collection, costly mistakes may result.

## ***Outsourcing Administration after COBRA is Elected***

Some insurance carriers offer to take on the responsibility for COBRA administration once a qualified beneficiary makes a COBRA election. Although this option is less prone to error than the premium collection only method described above, it still leaves much room for disaster.

## ***Delivery of COBRA Notices Prior to Election***

Most serious COBRA administration errors occur in the pre-election phase of the process. For example, proper delivery of the General Notice when plan participants first become covered under the plan is considered the most critical task in COBRA administration.

The second most important responsibility held by the plan administrator is to properly notify beneficiaries of their COBRA rights when a qualifying event occurs. These notices must be delivered in a timely manner, addressed to the correct individuals, and include accurate information as specified by the U. S. Department of Labor. If a mistake is made with either of these notices, there is little chance that the carrier or TPA will come to the rescue, because their involvement in the process does not begin until *after* COBRA is elected.

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## ***Keeping Records of What Happens Prior to COBRA Election***

Accurate record keeping is critical to COBRA compliance, and is the sole responsibility of the plan administrator, regardless of how much work is outsourced to third parties. All too often, employers believe that the carrier or TPA is handling – and is ultimately responsible for – detailed recordkeeping. Such misconceptions leave them defenseless when the IRS or a court demands supporting documentation. Unfortunately, third parties that handle COBRA administration after COBRA is elected simply cannot maintain records of what came before.

## **Outsourcing Administration after a Qualifying Event**

Although the most complete of the three methods commonly used for outsourcing COBRA administration to a carrier or TPA, this method still presents risks and the illusion that COBRA responsibility has been shifted to the other party. Regardless of the administrative skills of the best insurance carrier or TPA, the plan administrator handling the day-to-day operations of the health plan remains responsible for communicating critical data and ensuring that the information is received and processed in a timely manner. Unfortunately for employers, there is no escape from COBRA responsibility.

## **Conclusion**

Defining responsibility for each COBRA task is critical, especially if you outsource some, but not all, administrative tasks to a third party. Always:

- **Investigate all administration options carefully**, including the option to maintain complete control over the administrative process. Inexpensive software tools programmed to include COBRA's rules are available to simplify and speed self-administration. (See [COBRA OnQue® Features](#))
- **Take the time to define and document the administrative tasks required in your situation**, especially when sharing such tasks with a third party.
- **Remember that outsourcing is not a magic bullet**. Do not assume it is always in your best interest to outsource COBRA administrative duties. Outsourcing is expensive, often incomplete and always prone to communication problems.
- **Document, Document, Document**. Always keep complete records of all COBRA related activities and transactions, even when utilizing the services of a third party. When using such services, stay informed and involved at all stages of administration and catch errors early by reconciling your records with theirs on a regular basis.
- **Remember that you cannot pass off all responsibility to a third party**. The law is very clear on this subject: it makes the plan administrator fully accountable for COBRA administration, regardless of the level of involvement by third parties.

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## **Related COBRA Tips**

[Who Pays Damages When COBRA Is Improperly Denied?](#)

[COBRA Billing: Is It Required?](#)