

[Act 2 of 2009](#) was signed into law on June 20, 2009 to help address the growing need to extend health care options for those newly unemployed. Employees laid off by small employers are now eligible for state Mini-COBRA benefits. Prior to this, only those who worked for companies employing more than 20 people were eligible for federal COBRA benefits. These benefits extend health coverage under the small business' insurance plan for up to nine months. The federal Affordable Care Act enacted after Mini COBRA has made affordable coverage more accessible than ever before. Coverage through the Pennsylvania Mini COBRA law, however, remains an option you may want to consider. To learn more, choose a category:

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Mini-COBRA Defined

Q1. What is "Mini-COBRA"?

Mini-COBRA, or Act 2 of 2009, is a Pennsylvania law that gives employees of small businesses (2-19 employees) who receive health insurance from their employers the right to purchase continuation health insurance after they leave employment. It allows eligible employees and dependents to purchase health insurance through their former employer for nine months after their employment ends.

Q2. Why is it called "Mini-COBRA"? Is it different from federal COBRA?

Mini-COBRA is modeled after the federal COBRA law, but with some important differences. The federal COBRA law allows employees at larger businesses (20 or more employees) to purchase continuation health coverage after they leave employment for 18 months (or, in some cases, 36 months) after their employment ends. Pennsylvania's Mini-COBRA applies to employees of smaller businesses (2-19 employees) and it is for a shorter length of time (nine months, with no extensions).

Q3. What is the effective date of the Mini-COBRA act?

The act went into effect July 10, 2009.

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Eligibility

Q4. Who is eligible for Mini-COBRA continuation coverage?

Covered employees and their eligible dependents who lose group health insurance coverage through a small employer as a result of a "qualifying event" are eligible for Mini-COBRA continuation coverage. The covered employees and eligible dependents must have been continuously insured under the group policy or for similar benefits under any group policy which it replaced, for three consecutive months ending with the employee's termination.

Also, continuation coverage is not available for anyone who is covered or is eligible for coverage under Medicare; who fails to verify that he is ineligible for employer-based group health insurance as an eligible dependent; or is or could be covered by any other insured or uninsured group health coverage arrangement and under which the person was not covered immediately prior to such termination (this last condition excludes Medical Assistance and CHIP).

Q5. What is a "qualifying event"?

A qualifying event is an event that would result in the loss of coverage for the covered employee or eligible dependent, including:

- death of the covered employee,
- termination of employment (either voluntary or involuntary, but not for the employee's gross misconduct),
- reduction in hours,
- divorce or legal separation,
- eligibility for Medicare,
- dependent child ceasing to be dependent,
- bankruptcy of the employer.

Q6. When will an employee be eligible for Mini-COBRA?

An employee whose group coverage terminates on or after July 10, 2009 will be eligible for Mini-COBRA.

Q7. Can Mini-COBRA coverage be denied to me if I have a serious illness?

No, an employee or dependent who is eligible for Mini-COBRA coverage may not be discriminated against on the basis of any evidence of lack of insurability.

Q8. If I am on Mini-COBRA and then become eligible for Medicare or a new employer's health insurance coverage, must I give up the Mini-COBRA coverage?

Yes. You are no longer eligible for Mini-COBRA if you are eligible for Medicare or another group plan.

Q9. Does a Mini-COBRA participant have open enrollment rights if the nine months of continuation health insurance overlaps an open enrollment period?

A Mini-COBRA recipient is only entitled to receive continuation coverage for nine months, parallel to the coverage received under the group policy.

Q10. Suppose my former employer changes insurance companies during my nine month coverage period, does the new company have to take me?

If you are covered by Mini-COBRA and your employer replaces its group policy with another policy, you will continue to have coverage under the new policy.

Q11. Are churches, government entities and/or non-profits exempt from offering Mini-COBRA benefits?

Not necessarily. The Mini-COBRA law looks to the nature of the insurance policy, rather than the nature of the employer and the employer's benefit plan. So, an employer's insurance policy is subject to Mini-COBRA if: (1) the employer has an insurance policy that insures employees and eligible dependents for hospital, surgical or major medical benefits; (2) the persons eligible for Mini-COBRA benefits are not subject to COBRA; and (3) the employees are employed by an employer that normally employed between 2 and 19 employees on a typical business day.

Q12. What does the Act mean where it says that "Continuation shall only be available to a covered employee or eligible dependent who has been continuously insured under a group policy or for similar benefits under any group policy which it replaced, during the entire three-month period ending with such termination." Does this mean continuous coverage with the same employer or can coverage be from one employer to the next as long as there isn't a break in coverage?

Coverage must be provided by the same employer. The term "replaced" refers to the type of policy the employer offers. For example, if an employer changes the group policy within that three-month period, and the employee was covered under the old policy and the new policy over the course of the three-month period, the employee or eligible dependent would still be eligible for Mini-COBRA coverage.

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Notice Requirements

Q13. Is there any requirement that the insurance company or employer notify the employees of this change in their health insurance coverage?

Prior to the "qualifying event" notice (see the eligibility section), there is no requirement that employers notify employees of their rights under this new law. However, the terms of the employer's contract with the insurance company may contain specifics dealing with notice of policy changes.

Q14. If an employee is terminated, or otherwise experiences a "qualifying event", how will he find out about his rights under the Mini-COBRA law?

When health coverage ends due to a "qualifying event", the employer must provide notice to the covered employee.

Q15. What is the timeframe for an employer to send this notice of a "qualifying event" to an employee?

Under the Mini-COBRA law, an employer must give notice of a "qualifying event" – to the plan administrator (if different than the employer), the covered employee, and the insurance company – within 30 days of the "qualifying event".

Q16. Is there a "Model Language Notice" for employers and insurance companies to use in communicating options to employees?

Yes. The departments of Insurance and Labor & Industry developed a [model notice](#) available for your use in your communicating options to employees.

Q17. Does Pennsylvania's Mini-COBRA law require a special "proof of mailing" like the federal COBRA program?

The Mini-COBRA law does not specify how notices must be provided, but it is prudent to maintain proof of mailing in the event of any dispute about the timing or receipt of the notice.

Q18. We have 2-19 employees and therefore are covered by Pennsylvania Mini-COBRA. We are not terminating employee health coverage, but are changing our coverage so that it will no longer cover spouses or dependents. Is a plan change a qualifying event for Mini-COBRA coverage for the spouses and dependents?

No, a change in the employer's benefit plan does not constitute a qualifying event for Mini-COBRA coverage.

Q19. If an employer does not comply with the Mini-COBRA law, what are the penalties?

There are no specific penalties laid out in the Mini-COBRA law. However, to the extent any person or entity is performing activities in the business of insurance, it is subject to the penalties set forth in the Pennsylvania insurance laws. Employers may be subject to additional penalties by the Department of Labor & Industry or by the federal Department of Labor.

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Timing for Electing Mini-COBRA Continuation Coverage

Q20. Once the employer gives an employee notice of his right to Mini-COBRA continuation coverage, how soon must the employee respond?

The employee or employee's dependent must give notice to the administrator (who may be the employer) of his or her election within 30 days of receiving notice of the qualifying event.

Q21. What is the timeframe for the administrator to give notice to the insurance company of the employee's or eligible dependent's election of continuation coverage under Mini-COBRA?

Once the administrator receives notice from the employee that he is electing Mini-COBRA, the administrator must in turn give notice to the insurance company of the employee's or dependent's election within 14 days of the election.

Q22. When does the continuation coverage begin? Is there a break in coverage between the end of the group coverage and the start of Mini-COBRA coverage?

The continuation coverage will begin as of the date the prior group coverage ended. There will be no break in coverage.

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Benefits and Payment for Mini-COBRA Continuation Coverage

Q23. Does the Mini-COBRA continuation coverage provide the same benefits as the group policy the employee had before coverage terminated?

Yes, the continuation coverage must include any benefits provided under the group medical policy.

Q24. Does the Mini-COBRA continuation coverage include dental and vision coverage too?

No, the Mini-COBRA law only requires continuation of medical insurance.

Q25. If the employee has a health savings account or other medical spending account, does the employer have to contribute to the deductible after employment is terminated?

No, so long as scheduled payments have been made, there is no ongoing requirement to contribute to the deductible while the employee or eligible dependents are receiving Mini-COBRA continuation coverage.

Q26. What is the timeframe for employees to pay for this Mini-COBRA coverage?

Employees must pay for the coverage on a monthly basis.

Q27. What is the grace period for ongoing premium payments?

The grace period for premium payments under Mini-COBRA is not specified in the act, but would be the same as under the group coverage being continued.

Q28. Is the nine months of continuation health insurance under Mini-COBRA the same for all qualifying events (loss of dependent status, death of employee, etc.)?

Yes, Mini-COBRA continuation health coverage extends for nine months, regardless of the nature of the qualifying event. However, if a recipient of Mini-COBRA benefits becomes eligible for Medicare or other employer-based coverage, or fails to pay premiums on a timely basis, or the group policy is terminated, then Mini-COBRA coverage will end.

Q29. Are there circumstances upon which I, or my dependents may qualify for extended Mini-COBRA benefits?

No, the Mini-COBRA law does not have any provisions for extensions. However, you will be eligible for a special enrollment period for coverage on the Marketplace.

Q30. Does Mini-COBRA exclude medical spending accounts such as health savings accounts (HSAs) and health reimbursement accounts (HRAs), medical expense reimbursement accounts (MERPs), and flexible spending accounts (FSAs)? What if the medical spending account is funded weekly as the expenses come in, not on a regular basis. Would this mean that the employer does not have to fund through the medical spending account for those on Mini-COBRA?

The Mini-COBRA law does not exclude medical spending accounts. However, so long as scheduled payments have been made, the law does not impose a duty on the employer to contribute to the deductible of the employee holding the medical spending account as a component of the group policy after the employee's termination date. For purposes of determining whether all scheduled payments have been made, employers must satisfy all rules, including comparable contribution and nondiscrimination rules, applicable to the medical spending account. Note: any employer funding its employees' medical spending accounts on an irregular basis should look carefully to assure that it is satisfying all laws applicable to the spending accounts, since funding on an irregular basis may run afoul of comparable contribution and nondiscrimination rules, and possibly other rules as well.

Q31. When is the initial payment due after Mini-COBRA election?

While the law does not dictate the timing of the first payment, the payment should coordinate with the timing of the employer's regular payments to the insurer for the group insurance that is being continued. This is because Mini-COBRA requires payment to be made "on a monthly basis" to the administrator or its designee. The law also states that the amount may not be more than 105% "of the group rate of the insurance being continued on the due date of each payment."

Q32. We understand that the Mini-COBRA premium may not be more than 105% of the group rate. May the insurer choose not to charge the additional 5% fee for administration of the Mini-COBRA benefit? If so, may the insurer choose not to charge it on those accounts that have a third party administrator, but charge it on those accounts that it administers directly?

The law does not dictate that the premium must be 105% of the group rate; rather, the Mini-COBRA administration portion of the employee's or eligible dependent's contribution may not be more than 5% of the premium, so that the entire "premium contribution" (premium plus administrative expense) is not more than 105% of the group rate. The administrative expense portion, if any, may be charged by whatever entity is performing the administrative services for the Mini-COBRA coverage.

Mini-COBRA Group Coverage, or NEW Individual Coverage

Q33. What should I consider?

ACA compliant plans, both on and off the Marketplace, can no longer refuse coverage or charge more because of your medical history. Following a "qualifying event", you now have a choice: you may choose an individual policy or you may continue with your small group employer plan. Below are a few things to consider when making your decision. Remember only you and your family can decide your best option.

- Mini-COBRA is a mechanism through which you can remain on your former

employer's group health plan even if you no longer work there. The medical coverage is the same, so you have continued access to the same doctors, hospitals, and other medical providers. You will likely have to pay the full cost of the coverage up to 105% as noted above.

- The ACA Marketplace is a website where a person or family may shop for coverage; if qualified, you can get help paying premiums and/or meeting cost sharing responsibilities (i.e. co-pays, deductibles, and co-insurance).
- Whether you opt for Mini-COBRA, or for new individual coverage on the Marketplace, please be aware that your loss of group coverage triggers a Special Enrollment opportunity that is time sensitive.
- You have 30 days from the date of the Mini-COBRA Election Notice to continue that coverage.
- With the loss of your group coverage you don't have to wait to ACA Marketplace Open Enrollment. Generally you have 60 days before and after the loss of your employer group coverage to apply and enroll in a new Marketplace individual coverage. Learn more by visiting healthcare.gov

Additional Questions

The Pennsylvania Insurance Department is ready to respond to your questions on Mini-COBRA. Please feel free to contact us at:

Toll-free, Automated Consumer Hotline: 1-877-881-6388

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