

**Department of Employee Trust Funds
Local Health Insurance Administration Manual**

Chapter 9 – COBRA, Continuation and Conversion

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901 Overview of COBRA, Continuation and Conversion

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA), participants and their eligible dependents covered under the Wisconsin Public Employers Group Health Insurance Program have options available to them for the continuation or conversion of health insurance coverage in the event eligibility for group coverage ends. COBRA requires that the WPE Group Health Insurance Program offer subscribers (employees/members) and their covered dependents (qualified beneficiaries) temporary extension of identical coverage at the group rate for a maximum of 18 months (36 months under certain circumstances) following specific events, referred to as “qualifying events” (refer to subchapter 902). The following provides an overview of Continuation and Conversion.

Continuation:

Wisconsin statutes (Wis. Stat. § 40.51 (3-4), § 632.897) incorporate and extend the federal COBRA benefit noted above. Under this subsection, authority is given to the Wisconsin Group Insurance Board (GIB) to reinforce and broaden continuation rights under certain circumstances (e.g., to include domestic partners).

Note: Where Federal (COBRA) and State (continuation) laws differ, the law most favorable to the participant will apply. When used in this Chapter, “COBRA continuation” refers to the State or Federal legislation resulting in the most favorable outcome to the participant, unless otherwise specified.

Note: One commonly encountered distinction between federal and state law occurs in late-reported divorce. Under federal law, divorcees are entitled to 36 months of COBRA following the divorce event. (For example, a divorce reported on month 34 after the event would only leave the ex-spouse with a balance of 2 months.) However, state law guarantees a minimum of 18 months’ continuation regardless of event date. As a result, state law rules are followed and the ex-spouse would be entitled to continuation for

months 34 through 51.

Conversion:

Conversion coverage is available to participants who have been covered under the WPE Group Health Insurance Program under terms negotiated with the health plan. Participants may elect to convert to individual (non-group) coverage upon loss of eligibility for group coverage, i.e., when they reach the maximum length of continuation of group coverage or in lieu of continuation coverage. Participants electing conversion coverage do not need to provide evidence of insurability but must apply directly with the health plan through the process established by the health plan. The benefits and rates for conversion coverage are different than the benefits and rates for continuation coverage.

902 Persons Eligible for Continuation (Qualified Beneficiaries)

Under federal and state laws, when group health insurance coverage would otherwise end because of a life event known as a “qualifying event,” employees and their covered dependents become “qualified beneficiaries” and must be offered continuation coverage (refer to subchapter 905 for employer responsibilities).

- A. Employees must be offered continuation coverage in the event coverage is lost due to either of the following events:
- Termination of employment (for reasons other than gross misconduct), including retirement. The exception is when an employee retires and elects to take an immediate annuity and to continue health insurance. (Refer to Chapters 10, 11, and 12).
 - Completion of the maximum prepayment periods of 36 months while on a leave of absence or layoff. (Refer to Chapter 7).
- B. The spouse/domestic partner of an employee with family coverage in the WPE Group Health Insurance Program becomes a qualified beneficiary as a result of any of the following qualifying events:
- Death of spouse/domestic partner (employee). (Refer to Chapter 14 on Employee Death.)
 - Divorce. Coverage as a dependent spouse continues until the later of:
 - The end of the month in which the employer provides notification of continuation rights (*Continuation - Conversion Notice* [ET-2311]). (Refer to subchapter 903.)
 - or**
 - The end of the month in which the divorce is entered/final.

- Termination of domestic partnership. Coverage as a domestic partner ends at the end of the month the partnership is terminated.
 - Spouse/domestic partner (employee) loses coverage for reasons listed above under section A.
- C. Each eligible dependent child of an employee with family coverage in the WPE Group Health Insurance Program becomes a qualified beneficiary as a result of any of the following qualifying events:
- Death of parent/stepparent or parent's/stepparent's domestic partner (employee; refer to Chapter 14 on Employee Death).
 - Dependent eligibility status ceases under the WPE Group Health Insurance Program (Refer to the chart in subchapter 906 for examples).
 - Parents become divorced resulting in loss of eligibility.
 - Parent/step-parent and their domestic partner end a domestic partnership resulting in loss of eligibility.
 - Parent (employee) loses coverage for reasons listed above in A.
- D. An eligible dependent of a minor dependent of an employee with family coverage in the WPE Group Health Insurance Program becomes a qualified beneficiary when losing eligibility as a result of the minor dependent (parent) turning age 18. Coverage for the dependent of a minor dependent terminates at the end of the month in which the dependent child turns 18.
- E. An eligible disabled dependent, over age 26, of an employee with family coverage in the WPE Group Health Insurance Program becomes a qualified beneficiary upon loss of disabled status. Coverage terminates at the end of the month in which it is determined the disabled status ceases.

Note: When a voluntary change in coverage from a family plan to a single plan is done in anticipation of a divorce, the spouse and dependent children are eligible for continuation coverage when the divorce is final. The effective date for continuation coverage in this case is the date of the entry of the judgment of divorce. This is usually when the judge signs the divorce papers and the Clerk of Courts date-stamps them. In all other cases, voluntary cancellation does not create a continuation enrollment opportunity.

903 Employee Responsibilities

Employees and/or the qualified beneficiaries (refer to subchapter 902) are responsible for informing the employer of a qualifying event in which an employee and/or dependent loses eligibility for coverage under the WPE Group Health Insurance Program.

Under Federal COBRA law, if the employer is not notified within 60 days of the:

- event that caused the loss of coverage, or
- end of the period of coverage, whichever is later,

the right to continuation coverage is lost. Under state continuation law, separate requirements may allow notification after the 60-day period in limited divorce circumstances.

In the event of a divorce, if an employee does not notify their employer of their divorce, coverage for the ex-spouse and any stepchildren continues if the family premium continues to be paid. The ex-spouse must then be given the right to continue coverage even if notice is given beyond 60 days following the divorce.

Should the employee fail to advise the employer of divorce within 60 days of the event, the employer must provide notice to stepchildren that they are ineligible to continue coverage as a qualified beneficiary of the employee as soon as possible. Coverage terminates the end of the month in which the employer provides the notice of the right to continue coverage (*Continuation - Conversion Notice* (ET-2311)) to the ex-spouse and any stepchildren or children of minor stepchildren. In this situation, employers must check with ETF on the length of continuation coverage that is available.

Note: The ex-spouse is eligible to continue coverage under a single contract or a family contract with eligible dependents. The stepchildren or children of minor stepchildren are not eligible to continue coverage under a single contract of their own because notice of the divorce was not given to the employer within 60 days of the divorce. If the stepchildren meet the criteria of being an eligible dependent and the ex-spouse applies for family coverage as a continuant, the stepchildren can be included as covered dependents on the ex-spouse's family contract.

Note on terminations of domestic partnerships: Former DPs are also eligible to elect a single contract or a family contract with eligible dependents also losing coverage. Dependents of DPs are treated like stepchildren (or their dependents' children if that dependent is a minor) in the same way as indicated in the paragraph above. Coverage of former DPs (and dependents) will only extend through the end of the month the partnership terminates; the employer notification date will not affect the end date of coverage. DPs lose continuation rights if notice of termination is not received within 60 days.

904 Qualified Beneficiary Responsibilities

When electing continuation or conversion coverage, qualified beneficiaries are responsible for the following:

- Submitting the *Continuation - Conversion Notice* (ET-2311) and the *Health Insurance*

Application/Change Form (ET-2301) to ETF. Both forms (an employee need only submit a *Continuation - Conversion Notice* unless requesting a change in coverage) must be sent to ETF (that is, postmarked) no later than 60 days from the termination of their coverage or within 60 days of the date they were notified by their employer, whichever is later. If qualified beneficiaries do not elect continuation coverage within the 60-day period, they lose eligibility to enroll under continuation.

- Paying premium to the health plan when billed by the health plan.
- Reporting any changes affecting coverage, for example, address change, birth or adoption. If continuation coverage is elected, changes must be reported to ETF; if conversion coverage is elected, changes must be reported to the health plan.
- Subscribers and their insured dependents continuing coverage must enroll in Medicare Parts A and B when initially eligible. A copy of the Medicare card must be submitted to ETF. If a qualified beneficiary is eligible for Medicare:
 - **prior to** or on the effective date of COBRA coverage, they are eligible for Medicare reduced rates.
 - **after** COBRA coverage begins, COBRA coverage ends when the subscriber or dependents enroll in Medicare Parts A and B.
 - Qualified beneficiaries not eligible for Medicare remain eligible for COBRA coverage.
 - If Part B becomes effective after the continuation begins, the continuation period ends at the end of the month prior to when Medicare Part B becomes effective.

905 Employer Responsibilities

Within five days of being notified of the “qualifying event,” the employer is responsible for notifying qualified beneficiaries of their right to continue group coverage or convert to individual coverage by providing them with the following documents:

- *Continuation - Conversion Notice* (ET-2311), with the employer sections completed.
- *Health Insurance Application/Change Form* (ET-2301). This form is needed to enroll in continuation or conversion. The employee does not need to complete the application if continuing the coverage already in effect. The employee must still complete and return the *Continuation - Conversion Notice*. The employer should not complete any information on this form.

Note: A continuation notice must be provided within the five-day period even when it is determined the qualified beneficiary is not entitled to continuation coverage, for example, notice of the qualifying event was not provided to the employer within the required time period (refer to subchapter 906 for information on providing notice). The employer must indicate on the continuation notice that the qualified beneficiary is not eligible for COBRA by marking the correct fields.

The employer is responsible for informing qualified beneficiaries of the following:

- If electing continuation coverage, the completed *Continuation - Conversion Notice* and *Health Insurance Application* forms must be sent to ETF (i.e., postmarked) no later than 60 days after the date of the notice or 60 days after coverage ends, whichever is later.
- If electing continuation coverage, the health plan will bill the continuant(s) directly.
- If electing continuation coverage and the continuants are moving or will move to a different county for more than three months, they are eligible to change to another health plan without restrictions, provided the application is received within 30 days after the move. The application must be returned to the employer if the change would be effective before the termination of coverage paid through the employer; otherwise, the application must be returned to ETF. If the qualified beneficiary lives in a county different from that of the subscriber, they are also eligible to change plans at the time they begin continuation coverage.

Note: When entering a coverage end date in myETF Benefits for the employee’s coverage or the end date for any specific dependent on the employee’s contract through ‘Remove Dependent’, enter an end date that is the end of the month following the event. There is an exception to this when removing the subscriber’s spouse due to divorce (refer to subchapter 903).

906 Notice Requirement Illustration Chart

The following chart illustrates a sample timetable for providing notices related to continuation coverage for common scenarios:

Event	Occurs	Coverage Continues Until	Employee or Beneficiary Must Notify Employer By	Employer Must Provide Continuation Notice By	To Elect Continuation, Application Must Be Submitted To ETF By
Child (or stepchild, DP’s dependent) turns 26 and is not disabled.	3/15	3/31	05/31	5 days after receipt of notice	The later of 60 days after coverage terminates or 60 days after employer issues ET-2311.
Dependent of Minor Dependent Eligibility Ends as Dependent turns 18	03/15	03/31	05/31	5 days after receipt of notice	The later of 60 days after coverage terminates or 60 days after employer issues ET-2311.

Event	Occurs	Coverage Continues Until	Employee or Beneficiary Must Notify Employer By	Employer Must Provide Continuation Notice By	To Elect Continuation, Application Must Be Submitted To ETF By
Disability Status Terminates for >26 Year Old Dependent	03/15	03/31	05/31	5 days after receipt of notice	The later of 60 days after coverage terminates or 60 days after employer issues ET-2311.
Divorce Decree is Entered	03/15	End of the month in which continuation notice is given	05/31 But, if continuation notice is given late, check with ETF.	5 days after receipt of notice	The later of 60 days after coverage terminates or 60 days after employer issues ET-2311.
Domestic Partnership is terminated	03/15	03/31	05/31 If continuation notice is given late, check with ETF.	5 days after receipt of notice	The later of 60 days after coverage terminates or 60 days after employer issues ET-2311.
Employee Terminates Employment	03/15	03/31	05/31	5 days after receipt of notice	The later of 60 days after coverage terminates or 60 days after employer issues ET-2311.

907 Continuation Coverage Information

The benefits and limitations of coverage under continuation are identical to those provided to active employees. Participants enrolled in continuation coverage (continuants) must select the health plan already in effect at the time of termination of active coverage. Should the qualified beneficiary not reside in the same county as the subscriber, the qualified beneficiary may elect a health plan in their county of residence when enrolling in continuation coverage, even if the subscribers health plan is available in the qualified beneficiary's county. Continuants are allowed to change health plans during the annual It's Your Choice Open Enrollment period or following a residential move out of the county.

Continuation coverage may be in effect for up to 18 (sometimes 36) months. However, continuation coverage may be terminated early for any of the following reasons:

- The premium for continuation coverage is not paid when due.
- The subscriber becomes covered under another group health plan; a subscriber who refuses health insurance offered by another employer will not be affected.

- A spouse is divorced from a covered employee and subsequently remarries and is covered through the new spouse's group health plan.
- Qualified beneficiary voluntarily cancels continuation coverage.

If COBRA coverage is terminated early for any reason, it may not be reinstated.

Continuants may elect to convert to individual coverage (conversion at non-group rates) upon reaching the maximum continuation coverage period. Continuants are responsible for knowing when group continuation coverage ends and must contact their health plan directly to make application for conversion coverage as provided by the health plan.