

NOTIFICATION OF COBRA RIGHTS

WASHINGTON AND LEE UNIVERSITY

TO: ALL WASHINGTON AND LEE
UNIVERSITY EMPLOYEES

FROM:
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To provide options for individuals who lose health coverage from an employer-sponsored insurance plan, the Federal Government enacted the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272, Title X), commonly known as "COBRA." The following will explain your rights under the law and what should be done if you (or a covered dependent) experience a COBRA "qualifying event." A qualifying event is an event that occurs whereby an employee or covered dependent would no longer be eligible to continue under a group health plan.

WE REQUEST THAT YOU AND YOUR COVERED DEPENDENTS TAKE THE TIME TO READ THIS IMPORTANT NOTIFICATION.

COBRA LAW - With a few exceptions, employers with twenty or more employees that provide health benefits are required to offer employees (and/or their covered dependents) the right to a temporary extension of group insurance (called "continuation coverage") upon experiencing a qualifying event. An individual experiencing a qualifying event is referred to as a "qualified beneficiary" and receives many of the rights granted to similarly-situated active employees as it relates to group insurance plans.

Continuation coverage is different from converting to individual coverage after termination of employment. The major advantages of COBRA are that participants will receive the same group plan benefits as a similarly-situated active employee and will be charged the company's group rate (plus a maximum of two percent as an administrative fee). These COBRA rates may (or may not) be less than the premiums charged under a conversion policy so it is recommended that you contact the insurer directly to receive a quote. With many conversion policies, benefits are reduced and premiums are based upon the age and sex of the converting members. Another difference is that COBRA allows for covered dependents to independently continue their health coverage and retain COBRA rights throughout their continuation time frame.

EMPLOYER AND QUALIFIED BENEFICIARY'S RESPONSIBILITIES - When you or your covered dependents experience a qualifying event, you will be sent a notification explaining your rights to elect COBRA continuation coverage. The Plan Administrator shall provide this notification within forty-four days from the date of the qualifying event (or as soon as administratively possible). You or your dependents have the responsibility to notify our office of your desire to continue coverage within sixty days from the later of the date of notification or loss of coverage. Upon acceptance, you or your dependent will be notified of any enrollment forms that must be completed. Keep in mind; qualified beneficiaries who elect continuation coverage are responsible for premiums back to the date termination from the plan would have occurred. If you or a covered dependent experience a qualifying event and do not receive a qualifying event notification in a timely fashion, you are requested to contact the Plan Administrator immediately. Even if you elect not to continue coverage, it is vital you have the information necessary to make an informed decision.

The Washington and Lee University Office of Human Resources will know when certain qualifying events (i.e. reduced work hours, employment termination, death of an employee or the employee's entitlement to Medicare) occur. You and your covered dependents will be responsible for notifying our office of a divorce, legal separation or when a dependent loses his/her "dependent status." You or your dependents have sixty days to notify the Plan Administrator of these qualifying events. If the Plan Administrator is not notified within this time frame, COBRA continuation cannot be offered. In order to take advantage of the disability extension described below, you must also notify us within sixty days of a determination by Social Security that you or a dependent are "disabled."

COBRA QUALIFYING EVENTS - Listed below are qualifying events for which you and/or your covered dependents are able to continue coverage under COBRA. As shown, the maximum continuation coverage time frame depends upon the qualifying event experienced. To be considered a qualified beneficiary, you or your dependent must have been enrolled on the group plan on the day prior to the qualifying event. One exception to this rule is when a child is born to (or placed for

adoption with) an employee during the COBRA continuation period. These children will receive all the rights of a qualified beneficiary throughout the COBRA continuation period.

**Qualifying Events That Yield a Maximum of Eighteen Months' Coverage
(Experienced by the Employee)**

- 1) Termination of employment (for reason other than "gross misconduct");
- 2) Reduction of employee's work hours.

**Qualifying Events That Yield a Maximum of Thirty-six Months' Coverage
(Experienced by a Covered Dependent)**

- 1) Death of the employee;
- 2) Divorce or legal separation;
- 3) Employee is entitled to Medicare but dependents are not;
- 4) Dependent child who no longer meets the plan's definition of a "dependent."

Special Medicare Extending Rule - If an active employee becomes entitled to Medicare and later experiences a termination of employment or reduction in work hours, covered dependents may be eligible for thirty-six months of continuation coverage from the date of the Medicare Entitlement. In this situation, dependents shall be eligible for a minimum of eighteen months of COBRA continuation coverage.

EXTENDING COBRA COVERAGE - After electing to continue coverage under COBRA, there are certain situations that may allow qualified beneficiaries to increase the time frame of continuation coverage. If the initial qualifying was termination of employment or a reduction in work hours, qualifying individuals may be eligible to increase their time frame under COBRA. In each of the two situations described below, eligible individuals must notify the Plan Administrator (in writing) as explained.

Disability Extension - If the qualifying event is an employee's termination or reduction in work hours and you or a covered dependent are determined to be "disabled" by Social Security (under Title 11 or Title XVI) either before that qualifying event or within sixty days of such event, you and your covered dependents are eligible for an additional eleven months of coverage (yielding a total of twenty-nine months). For this extension to apply, evidence of disability under the Social Security Act must be provided to the Plan Administrator within the initial eighteen month continuation coverage time frame and within sixty days from the date of Social Security's determination.

Multiple Qualifying Events - If you experience a qualifying event that entitles you and your covered dependents to less than thirty-six months of continuation coverage (including the disability extension described above) and during your period of continuation coverage your covered dependents experience a second (or "multiple") qualifying event, the period of continuation coverage for your covered dependents may be extended under COBRA from eighteen months (or twenty-nine months if disabled) to thirty-six months. The maximum continuation period is thirty-six months regardless of how many qualifying events your covered dependents experience. It is the responsibility of you or your covered dependents to notify the Plan Administrator within sixty days of the multiple qualifying event. Employees who experience a reduction in work hours followed by termination of employment shall only be eligible for eighteen months of continuation coverage under COBRA. To be considered a multiple qualifying event, such event must have caused the qualified beneficiary to lose coverage had the first qualifying event not occurred.

FAMILY AND MEDICAL LEAVE ACT - Under the Family and Medical Leave Act of 1993 (FMLA), eligible employees have the right to take up to twelve weeks of unpaid leave to care for themselves or a relative. If you elect to take this leave and later notify the company that you will not be returning, you have the ability to continue your coverage for eighteen months from the date benefits are terminated on account of your failure to return to work. (FMLA does not apply to all organizations and can differ between states. Please contact a company representative for further information on FMLA.)

COBRA TERMINATION - Although COBRA continuation coverage has a maximum time frame, you may voluntarily terminate coverage at anytime by notifying our office in advance. In addition, COBRA states that continuation coverage will end for one or more of the following reasons:

- 1) The company terminates all of its health plans for similarly situated active employees;
- 2) COBRA premiums are not paid in a timely manner;
- 3) You and/or your covered dependents become covered under another group plan after electing continuation coverage and that plan does not exclude a pre-existing medical condition affecting you or your dependents;

- 4) You become entitled to Medicare (meaning enrolled in Parts A and/or B) after you have elected continuation coverage under COBRA;
- 5) You or a covered dependent are enrolled in a plan that requires you to live in the plan's "service area" or visit contracted providers and you move out of that service area. However, if another plan is available to similarly situated active employees who move from the service area, coverage under that plan will be offered to you;
- 6) You file fraudulent claims or engage in other activities for which a similarly situated active employee would be terminated "for cause;" or
- 7) A "disabled" participant is determined by Social Security to be no longer disabled during the eleven month extension. In that case, the entire family unit will be terminated from COBRA.

PREMIUM COSTS - The cost of continuation coverage will be determined at the time of the qualifying event. Your cost will be the amount the insurance company charges Washington and Lee University (or if the plan is self insured, the cost of coverage as determined by the company) for similarly situated active employees under the plan plus a 2% administration fee. An employee who is deemed to be disabled and who elects the disability extension may be charged a 50% administration fee during the eleven month extension. (If the disabled employee does not elect the disability extension or terminates coverage before the extension would ordinarily end, his/her covered dependent's administration fee will be reduced to 2%.) If the firm's premium increases or decreases, the COBRA participant's premiums will be adjusted accordingly. Premium rates for the plan are set for twelve month periods based upon the Plan Year.

If you elect to continue coverage under COBRA, you will be granted an initial forty-five day grace period to make your payment. Your first payment must include the premiums for coverage retroactively to the date you or your covered dependents would have lost coverage if you hadn't elected to continue coverage. Subsequent premium payments will have a thirty day grace period. If premiums are not received within the allotted grace period, COBRA coverage will be terminated back to the date for which premiums were applied. The company asks for full payment by the first of the month but will accept multiple payments (equaling the total monthly premium due) throughout the month of coverage.

COVERAGE UNDER COBRA - Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children. Since COBRA is a continuation of benefits, your benefits will remain the same as prior to the qualifying event. If the company elects to change plans and/or benefits, you will be eligible to enroll in the changed plan and will therefore receive the same benefits as a similarly situated active employee. If your plan has deductibles and coinsurance maximums, these amounts will be based upon expenses incurred prior to the qualifying event by only those family members electing to continue under the plan.

COBRA participants who move from the plan's service area may lose coverage under the group health plan (as would a similarly situated active employee). If the company offers a plan that would provide coverage in the new area, the COBRA participant will be offered the right to enroll in that plan.

OPEN ENROLLMENT - COBRA participants are offered the same rights as similarly situated active employees during open enrollment. They may change plans and add/delete eligible dependents. Although part of the family unit, dependents (other than newborn children and adopted children of the employee) added during open enrollment will not have the same COBRA rights as the initial qualified beneficiaries. The company's open enrollment may vary from year to year so feel free to contact the Plan Administrator for further information on open enrollment.

CONVERSION POLICIES - A conversion policy allows individuals covered under a group plan to convert their coverage to an individual policy without a lapse in coverage or a pre-existing condition limitation upon termination from the group plan. Not all group plans offer a conversion right. If you are enrolled in a plan that allows conversion, you will receive a notification explaining conversion privileges in the last 180 days of your COBRA term.

TRADE ACT OF 2002 – On August 6, 2002, the Trade Act of 2002 was signed into law expanding the benefits available to workers displaced by import competition or shifts of production to other countries. The Trade Act of 1974 initially offered benefits (known as “trade adjustment assistance”) which expired September 30, 2001. The Trade Act of 2002 extended this period to September 30, 2007 and offers qualified workers a tax credit of up to 65% of COBRA health insurance premiums for both them and their family.

To be eligible for the tax credit, you must be currently receiving trade adjustment assistance or considered an “eligible Pension Benefit Guaranty Corporation (PBGC) pension recipient,” paying premiums for qualified health insurance, not receiving other coverage and not in prison. The law also creates a second “election period” for individuals not electing

COBRA coverage upon their loss of employment if they are within the six months immediately after their group health plan coverage ended. If you have questions about these new tax provisions, you may call the Health Coverage Tax Credit Customer Contact Center toll-free at 1-866-628-4282. TTD/TTY callers may call toll-free at 1-866-626-4282. More information about the Trade Act is also available at www.doleta.gov/tradeact/2002act_index.asp.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) - The scope of HIPAA is to eliminate barriers for individuals (mainly people with pre-existing medical conditions that would have difficulty obtaining immediate coverage) who lose coverage and want to find a replacement plan. The law limits a plan's "pre-existing condition limitation time frame" to twelve months for newly enrolling individuals and provides credit for prior medical coverage, including COBRA continuation coverage. When you terminate from a group medical plan, you will receive a Certificate of Coverage that illustrates your prior coverage. This certificate should be shown to a new employer to receive one month credit for every month of prior coverage. If there is a break in coverage greater than sixty-three days, the new employer does not have to provide any prior coverage credit. (Individuals receiving trade adjustment assistance and who enroll in COBRA during the "second election period" shall receive creditable coverage even with a break in coverage larger than sixty-three days.)

In addition, if you elect COBRA and keep your coverage for the maximum continuation period available to you, you may be eligible for coverage under an individual plan (through an insurer of your choice) on a guaranteed issue basis without any pre-existing condition limitations.

PLAN ADMINISTRATOR - The Plan Administrator is your contact as it relates to COBRA and your continuation coverage. If you have any questions regarding this notification or your continuation coverage, you may review your Plan's Summary Plan Document or contact the Plan Administrator. It is your responsibility to notify the Plan Administrator of any qualifying events and when you have a change of address. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

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FURTHER INFORMATION AVAILABLE - For further information concerning your Plan or your COBRA continuation coverage rights, you may contact the insurance carrier(s) identified below. For information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

Plan Contacts:

SOUTHERN HEALTH SERVICES, INC
TOWN CENTER ONE
1000 RESEARCH CENTER PARK BLVD
CHARLOTTESVILLE, VA 22911
1-800-627-4872
WWW.SOUTHERNHEALTH.COM