

COBRA and Medicare



COBRA (Consolidated Omnibus Budget Reconciliation Act) is a federal law that gives employees and their dependents the right to keep their employee health benefits in case of a job loss, divorce or death. It can last for 18 months (36 with Cal-COBRA addition). Federal COBRA applies to companies with 20 or more employees, and Cal-COBRA will cover for those with a few as 2 employees.

Your spouse and dependents have independent COBRA rights and may take Federal COBRA for up to 36 months regardless of your Medicare enrollment status. As an example, a retired employee on COBRA turns 65 and enrolls in Medicare and a Medigap or Medicare Advantage plan and drops COBRA. The dependent family members can continue on COBRA.

Can I have COBRA instead of Medicare, or together with Medicare?

Whether you have both COBRA and Medicare depends on which one came first. But COBRA coverage is always secondary to Medicare! In either case, you should always enroll in Part B as soon as you stop working. Without Medicare Part B, there is no primary coverage for medical services and you may face a delay and penalties for Medicare.

Have COBRA first then become eligible for Medicare (turn 65 or 2 years on Social Security Disability)

In this situation, eligibility for COBRA ends according to Federal law. **Beware:** COBRA often mistakenly continues paying for a time, even for several years. If COBRA mistakenly continues paying claims as primary coverage, the company can and likely will recoup costs paid in error. Furthermore, there will be no medical insurance coverage without Medicare.



Without timely enrollment during your 7-month Initial Enrollment Period for Medicare, there will be coverage delays. This is because you will have to wait for the General Enrollment Period (GEP) to enroll in Part B with a delayed effective date and lifetime penalties. Once you are even eligible for free Part A, you cannot get a Covered California plan. You will have no coverage for outpatient medical services during the interim.

Have Medicare A and/or B already then become eligible for COBRA



In this case, you have a right to participate in a COBRA plan. This is most common when you enrolled in free Part A while still working and deferred enrolling in Part B. Now you stop work and there is no employer sponsored retiree medical insurance coverage.

COBRA is always secondary to Medicare, so immediate enrollment in Part B is necessary to have primary coverage for outpatient medical services. Additionally, without prompt enrollment in Part B during the 8-month Special Enrollment Period after you stop working, there can be delays in coverage and lifetime penalties.

Usually, COBRA is more expensive than the alternate of either a Medicare Supplemental (Medigap) or Medicare Advantage plans. But it may be helpful if you have high medical expenses and your plan covers your Medicare cost-sharing or offers other needed benefits. A cost/benefit comparison should be done and HICAP can help you with this.

It may be possible to keep COBRA just for services Medicare doesn't provide, such as dental or vision plans, depending on your company plan.



COBRA and Prescription Drug Coverage

If you use COBRA for drug coverage, a Part D plan is not needed if the COBRA coverage is considered 'creditable coverage'. Your HR Department will know and can document if that is the case. If not, enrollment in a Medicare Part D plan is required within 63 days of leaving your Employer Group Health Plan to avoid future delays and penalties.

More information:

See [this COBRA fact sheet from Medicare](#).

Contra Costa County Health Insurance Counseling and Advocacy Program (HICAP)

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