FLEXBANK ADMINISTRATORS

May 2019

COBRA Administrative Guide

Welcome to FlexBank

We want to first and most importantly thank you for the opportunity to administer your benefit. It is our number one priority to build a strong partnership with you and to provide exceptional customer service to your organization.

This guide highlights many of the rules and regulations you must follow to keep your plan compliant.

Introduction

Most group health plans sponsored by employers must comply with the Employee Retirement Income Security Act of 1974 (ERISA), a Federal law that sets standards to protect employee benefits. One of the protections contained in ERISA is the right to COBRA continuation coverage, a temporary continuation of group health coverage that would otherwise be lost due to certain life events. This guide summarizes COBRA continuation coverage and explains the rules that apply to group health plans.

What is COBRA?

COBRA – the Consolidated Omnibus Budget Reconciliation Act requires group health plans to offer continuation coverage to covered employees, former employees, spouses, former spouses, and dependent children when group health coverage would otherwise be lost due to certain specific events. The events include the death of a covered employee, termination or reduction in the hours of a covered employee's employment for reasons other than gross misconduct, a covered employee's becoming entitled to Medicare, divorce or legal separation of a covered employee and spouse, and a child's loss of dependent status (and therefore coverage) under the plan. COBRA sets rules for how and when continuation coverage must be offered and provided, how employees and their families may elect continuation coverage, and what circumstances justify terminating continuation coverage.
Employers can require individuals to pay for COBRA continuation coverage. The premium that is charged cannot exceed the full cost of the coverage, plus a two percent administration charge. FlexBank retains the two percent administrative fee as part of our service agreement with our clients.

Which plans are subject to COBRA?

COBRA generally applies to all private-sector group health plans maintained by employers that have at least 20 employees on more than 50 percent of its typical business days in the previous calendar year. Both full- and part-time employees are counted to determine whether a plan is subject to COBRA. Each part-time employee counts as a fraction of a full-time employee, with the fraction equal to the number of hours that the part-time employee worked divided by the hours an employee must work to be considered full-time.

COBRA also applies to plans sponsored by state and local government employers, including counties, municipalities and public schools. The law does not apply, however, to plans sponsored by the Federal Government or by churches and certain church-related organizations.

What is a group health plan? It is any arrangement that an employer establishes or maintains to provide employees or their families with medical care, whether it is provided through insurance, by a health maintenance organization, out of the employer's assets, or through any other means.

"Medical care" includes for this purpose:

Inpatient and outpatient hospital care;
Physician care;
Surgery and other major medical benefits;
Prescription drugs; and
Dental and vision care.

Life insurance is not considered "medical care," nor are disability benefits. COBRA does not cover plans that provide only life insurance or disability benefits.

An employee assistance program (EAP) is subject to COBRA if it meets the definition of a group health plan. COBRA defines a group health plan as a plan that the employer maintains or supports and which provides some type of medical services. If the EAP is just a referral service, it would not be considered a group health plan, and not subject to COBRA. If however, an employee can call into the EAP and engages in a discussion with a counselor who schedules an appointment, the EAP meets the criteria of an employer-sponsored health plan because the employee is receiving counseling from a trained professional. If however, the EAP only provides the employee a list of counselors in the area, it would not meet the criteria for a health plan.

Medical flexible spending accounts (FSAs) are also considered group health plans and in most instances, are subject to COBRA. There are two situations where COBRA continuation applies to health FSAs:

1. Health care flexible spending account participants with a positive balance (actual deposits exceed YTD claims) are eligible for COBRA continuation.
2. "Integrated" health FSAs where the employer offers more than $500 of employer funding into the FSA for only those enrolled in the employer group health plan and does not give the option of cashable flex credits.

Electing COBRA for a medical flexible spending account permits the terminating employee to continue participation through the end of the FSA coverage period for the year in which they originally elected as an active employee. Please note: if your plan offers the carryover feature for the medical FSA, carryover funds are subject to COBRA. FlexBank will need to be notified of any carryover funds. The participant will be given the option of electing COBRA to spend the carryover funds without a premium due.

Group health plans covered by COBRA that are sponsored by private-sector employers are generally welfare plans under ERISA and therefore subject to ERISA's other requirements. Under ERISA, group health plans must be administered by a plan administrator, who is almost always the Employer. Carrying out the requirements of COBRA is the direct responsibility of the plan administrator. FlexBank will serve as the third party administrator (TPA) under the direction of the plan administrator, but will not act as the plan administrator.

Who is entitled to COBRA?

A group health plan is required to offer COBRA continuation coverage only to **qualified beneficiaries** and only after a **qualifying event** has occurred.

Qualified Beneficiaries

A qualified beneficiary is an individual who was covered by a group health plan on the day before a qualifying event occurred and who is an employee, the employee's spouse or former spouse, or the employee's dependent child. In certain cases involving the bankruptcy of the employer, a retired employee, the retired employee's spouse (or former spouse), and the retired employee's dependent children may be qualified beneficiaries. In addition, any child born to or placed for adoption with a covered employee during a period of continuation coverage is automatically considered a qualified beneficiary. An employer's agents, independent contractors, and directors who participate in the group health plan may also be qualified beneficiaries.

Qualifying Events

"Qualifying events" are events that cause an individual to lose group health coverage. The type of qualifying event determines who the qualified beneficiaries are for that event and the period of time that a plan must offer continuation coverage. COBRA establishes only the minimum requirements for continuation coverage.

The following are qualifying events for a **covered employee** if they cause the covered employee to lose coverage:

- ✓ Termination of the covered employee's employment for any reason other than "gross misconduct";
- ✓ Reduction in the covered employee's hours of employment.

The following are qualifying events for a **spouse** and **dependent child** of a covered employee if they cause the spouse or dependent child to lose coverage:

- ✓ Termination of the covered employee's employment for any reason other than "gross misconduct";
- ✓ Reduction in hours worked by the covered employee;
- ✓ Covered employee becomes entitled to Medicare;
- ✓ Divorce or legal separation of the spouse from the covered employee; or
- ✓ Death of the covered employee.

In addition, the following is a qualifying event for a **dependent child** of a covered employee if it causes the child to lose coverage:

- ✓ Loss of "dependent child" status under the plan rules. Under the Affordable Care Act, plans that offer coverage to children on their parents' plan must make coverage available until the adult child reaches the age of 26.

COBRA Notices and Election Procedures

Under COBRA, group health plans must provide covered employees and their families with specific notices explaining their COBRA rights. Plans must also have rules for how COBRA continuation coverage is offered, how qualified beneficiaries may elect continuation coverage, and when it can be terminated.

Notice Procedures

Summary Plan Description

The COBRA rights provided under the plan, like other important plan information, must be described in the plan's Summary Plan Description (SPD). The SPD is a written document that gives important information about the plan, including what benefits are available under the plan, the rights of participants and beneficiaries under the plan, and how the plan works. ERISA requires group health plans to give each participant an SPD within 90 days after he or she first becomes a participant in a plan (or within 120 days after the plan is first subject to the reporting and disclosure provisions of ERISA).

In addition, if there are material changes to the plan, the plan must give participants a Summary of Material Modifications (SMM) not later than 210 days after the end of the plan year in which the changes become effective. If the change is a material reduction in covered services or benefits, the SMM must be furnished not later than 60 days after the reduction is adopted. A participant or beneficiary covered under the plan may request a copy of the SPD and any SMMs (as well as any other plan documents), which must be provided within 30 days of a written request. If you do not have a SPD on file, FlexBank can prepare the proper documents for your benefit plans. Contact your FlexBank account manager for more details and pricing on this service.

COBRA General Rights Notice (also known as an "initial notice")

Group health plans must give each employee and each spouse of an employee who becomes covered under the plan a general rights notice describing COBRA. The general rights notice must be provided within the first 90 days of coverage. Group health plans can satisfy this requirement by including the general notice in the plan's SPD. However, to meet the obligation to notify spouses, a separate notice should be mailed first class to the home address outside of providing the notice to the employee via the SPD. If the plan administrator knows the employee and spouse live at different addresses; separate mailings must be made.

The general rights notice must include:

- ✓ The name of the plan and the name, address, and telephone number of someone whom the employee and spouse can contact for more information on COBRA and the plan;
- ✓ A general description of the continuation coverage provided under the plan;
- ✓ An explanation of what qualified beneficiaries must do to notify the plan of qualifying events or disabilities;
- ✓ An explanation of the importance of keeping the plan administrator informed of addresses of the participants and beneficiaries; and
- ✓ A statement that the general rights notice does not fully describe COBRA or the plan and that more complete information is available from the plan administrator and in the SPD.

COBRA Qualifying Event Notice

Before a group health plan must offer continuation coverage, a qualifying event must occur. The group health plan must be notified of the qualifying event and is not required to act until it receives an appropriate notice. Who must give notice depends on the type of qualifying event.

The **employer** must notify the plan if the qualifying event is:

- ✓ Termination or reduction in hours of employment of the covered employee;
- ✓ Death of the covered employee;
- ✓ Covered employee's becoming entitled to Medicare; or
- ✓ Bankruptcy of a private-sector employer.

The employer must notify the plan within 30 days after the event occurs.

The **covered employee** or one of the **qualified beneficiaries** must notify the plan if the qualifying event is:

- ✓ Divorce;
- ✓ Legal separation; or
- ✓ A child's loss of dependent status under the plan.

The 60 day enrollment period will begin on the date the COBRA Qualifying Event Notice is mailed for event dates that occurred in the past or on the first day after coverage is lost if the notice is mailed prior to the loss of coverage.

COBRA Election Notice

After receiving a notice of a qualifying event, the plan must provide the qualified beneficiaries with an election notice, which describes their rights to continuation coverage and how to make an election. The election notice must be provided to the qualified beneficiaries within 14 days after the plan administrator receives the notice of a qualifying event. Once again, if the plan administrator has knowledge that the qualified beneficiaries are residing at different addresses; separate mailings must be made.

The election notice includes:

- ✓ The name of the plan and the name, address, and telephone number of the plan's COBRA administrator;
- ✓ Identification of the qualifying event;
- ✓ Identification of the qualified beneficiaries (by name or by status);
- ✓ An explanation of the qualified beneficiaries' right to elect continuation coverage;
- ✓ The date coverage will terminate (or has terminated) if continuation coverage is not elected;
- ✓ How to elect continuation coverage;
- ✓ What will happen if continuation coverage isn't elected or is waived;
- ✓ What continuation coverage is available, for how long, and (if it is for less than 36 months), how it can be extended for disability or second qualifying events;
- ✓ How continuation coverage might terminate early;
- ✓ Premium payment requirements, including due dates and grace periods;
- ✓ A statement of the importance of keeping the plan administrator informed of the addresses of qualified beneficiaries; and
- ✓ A statement that the election notice does not fully describe COBRA or the plan and that more information is available from the plan administrator and in the SPD.

COBRA Notice of Unavailability of Continuation Coverage

Group health plans may sometimes deny a request for continuation coverage or for an extension of continuation coverage, when the plan determines the requester is not entitled to receive it. When a group health plan makes the decision to deny a request for continuation coverage or a request for an extension from an individual, the plan must give the individual a notice of unavailability of continuation coverage. The notice must be provided within 14 days after the request is received, and the notice must explain the reason for denying the request. Please note - the employer will be solely responsible for notifying individuals in the event they are not entitled to COBRA under the Act. Such notice will be in writing and will indicate why the person is not entitled to COBRA or to extend COBRA and how to appeal that decision. The employer will immediately provide FlexBank a copy of all such notices to FlexBank for record keeping purposes.

COBRA Notice of Early Termination of Continuation Coverage

Continuation coverage must generally be made available for a maximum period (18, 29, or 36 months). The group health plan may terminate continuation coverage early, however, for any of a number of specific reasons. (See "Duration of Continuation Coverage" later in this guide.) When a group health plan decides to terminate continuation coverage early for any of these reasons, the plan must give the qualified beneficiary a notice of early termination. The notice must be given as soon as practicable after the decision is made, and it must describe the date coverage will terminate, the reason for termination, and any rights the qualified beneficiary may have under the plan or applicable law to elect alternative group or individual coverage.

Special Rules for Multiemployer Plans

Multiemployer plans are allowed to adopt some special rules for COBRA notices. First, a multiemployer plan may adopt its own uniform time limits for the qualifying event notice or the election notice. A multiemployer plan also may choose not to require employers to provide qualifying event notices, and instead to have the plan administrator determine when a qualifying event has occurred. Any special multiemployer plan rules must be set out in the plan's documents (and SPD).

Election Procedures

COBRA requires group health plans to give qualified beneficiaries an election period during which they can decide whether to elect continuation coverage, and COBRA also gives qualified beneficiaries specific election rights.

Qualified beneficiaries will have the option to enroll in COBRA by mailing FlexBank their enrollment materials or by enrolling online using login credentials that are provided to them in their qualifying event notice. Participants can also use our portal to choose benefits during open enrollment. Payment is not required at the time of initial enrollment but is required to be received no later than 45 days after the enrollment form is received by FlexBank.

Each qualified beneficiary will be given an independent right to elect continuation coverage. This means when several individuals (such as an employee, his or her spouse, and their dependent children) become qualified beneficiaries due to the same qualifying event, each individual can make a different choice. The plan must allow the covered employee or the covered employee's spouse, however, to elect continuation coverage on behalf of all of the other qualified beneficiaries for the same qualifying event. A parent or legal guardian of a qualified beneficiary must also be allowed to elect on behalf of a minor child.

You will be able to view participant enrollment and payment information when you log into our employer portal. FlexBank will also notify qualified beneficiaries via mail when their enrollment form is received and prompt those who did not submit payment with their enrollment form to submit proper payment within their allotted time frame.

If you offer a subsidy or pay for COBRA coverage as part of a severance agreement to former employees, please note FlexBank will require an enrollment form from the qualified beneficiaries in order to officially enroll.

If a qualified beneficiary waives continuation coverage during the election period, he or she must be permitted to later revoke the waiver of coverage and elect continuation coverage; as long as the revocation is done before the end of the election period. If a waiver is later revoked, however, the plan is permitted to make continuation coverage begin on the date the waiver was revoked.

Benefits under COBRA

COBRA also sets standards for the continuation coverage that must be provided. The continuation coverage must be identical to the coverage that is currently available under the plan to similarly situated individuals who are covered under the plan and not receiving continuation coverage. (Generally, this is the same coverage that the qualified beneficiary had immediately before the qualifying event.) A qualified beneficiary receiving continuation coverage must receive the same benefits, choices, and services that a similarly situated participant or beneficiary is currently receiving under the plan, such as the right during an open enrollment season to choose among available coverage options.

The qualified beneficiary is also subject to the same plan rules and limits that would apply to a similarly situated participant or beneficiary, such as co-payment requirements, deductibles, and coverage limits. The plan's rules for filing benefit claims and appealing any claims denials also apply.

FlexBank will reach out to you at least 60 days prior to your known health insurance renewal date to obtain the new COBRA rates. However, it is the Employer's responsibility to furnish the rates to FlexBank in a timely manner. FlexBank will notify COBRA participants as well as those in their enrollment period via mail of any rate change and provide new payment coupons. For an additional fee, FlexBank can also send open enrollment packets to COBRA participants on your behalf.

During open enrollment, any changes made to the plan's terms that apply to similarly situated active employees and their families will also apply to qualified beneficiaries receiving COBRA continuation coverage. If a child is born to or adopted by a covered employee during a period of continuation coverage, the child is automatically considered to be a qualified beneficiary receiving continuation coverage. The plan must allow the child to be added to the continuation coverage. Individuals must enroll in an existing COBRA benefit before enrolling during open enrollment. In other words, the COBRA eligible participant must have already been enrolled in active COBRA coverage to be eliible to participate in the open enrollment process. The employer does not need to offer COBRA Open Enrollment to individuals that declined, ended or otherwise do not elect COBRA coverage. As [previously stated, COBRA participants and dependents have the same rights and responsibilities as similarly situated employees. If the employer requires active enrollment by employees during open enrollment, they can require active enrollment by COBRA participants. If however, the employer has a passive enrollment; COBRA participants can maintain their existing coverage and/or be enrolled in the default coverage option.

COBRA participants must receive an open enrollment package provided by the employer, which contains all required open enrollment disclosures. Additionally, the packet must include any updates or changes to rate information.

Duration of COBRA

Maximum Periods

COBRA requires that continuation coverage extend from the date of the qualifying event or loss of coverage if different, for a limited period of time of 18 or 36 months. The length of time for which continuation coverage must be made available (the "maximum period" of continuation coverage) depends on the type of qualifying event that gave rise to the COBRA rights. As the end of qualified beneficiary's 18-36 month continuation coverage period draws to a close, FlexBank will notify COBRA participants via mail 60 days before coverage terminates.

When the qualifying event is the covered employee's termination of employment (for reasons other than gross misconduct) or reduction in hours of work, qualified beneficiaries must be provided **18 months** of continuation coverage. When the qualifying event is the end of employment or reduction of the employee's hours, and the employee became entitled to Medicare less than 18 months before the qualifying event, COBRA coverage for the employee's spouse and dependents can last until 36 months after the date the employee becomes entitled to Medicare. For example, if a covered employee becomes entitled to Medicare 8 months before the date his/her employment ends (termination of employment is the COBRA qualifying event), COBRA coverage for his/her spouse and children would last 28 months (36 months minus 8 months). For all other qualifying events, qualified beneficiaries must be provided **36 months** of continuation coverage.

Under COBRA, certain retirees and their family members who receive post-retirement health coverage from employers have special COBRA rights in the event that the employer is involved in bankruptcy proceedings begun on or after July 1, 1986. This guide does not fully describe the COBRA rights of that group.

Early Termination

A group health plan may terminate continuation coverage earlier than the end of the maximum period for any of the following reasons:

- ✓ Premiums are not paid in full on a timely basis;
- ✓ The employer ceases to maintain any group health plan;
- ✓ A qualified beneficiary begins coverage under another group health plan after electing continuation coverage;
- ✓ A qualified beneficiary becomes entitled to Medicare benefits after electing continuation coverage; or
- ✓ A qualified beneficiary engages in conduct that would justify the plan in terminating coverage of a similarly situated participant or beneficiary not receiving continuation coverage (such as fraud).

If continuation coverage is terminated early, FlexBank will provide the qualified beneficiary with an early termination notice via mail. (See COBRA Notice and Election Procedures earlier in this guide.)

Extension of an 18-month Period of Continuation Coverage

There are two circumstances under which individuals entitled to an 18-month maximum period of continuation coverage can become entitled to an extension of that maximum. The first is when one of the qualified beneficiaries is disabled; the second is when a second qualifying event occurs.

Disability

If one of the qualified beneficiaries in a family is disabled and meets certain requirements, all of the qualified beneficiaries in that family are entitled to an 11-month extension of the maximum period of continuation coverage (for a total maximum period of **29 months** of continuation coverage). The COBRA participant will be charged the allowable 150% cost of the coverage during the 11 month extension period. FlexBank will retain two percent of the total premium per our service agreement.

The requirements are: The Social Security Administration (SSA) must first determine the disabled qualified beneficiary is disabled before the 60th day of continuation coverage. The qualified beneficiary must then send the Plan a copy of the Social Security Ruling letter within 60 days. And, the disability continues during the rest of the initial 18-month period of continuation coverage.

The right to the disability extension may be terminated if SSA determines that the qualified beneficiary is no longer disabled. Disabled qualified beneficiaries must provide notice within 30 days when such a determination is made. The plan must give the qualified beneficiaries at least 30 days after the SSA determination in which to provide such notice.

Second Qualifying Event

The participant must notify the plan within 60 days from the second qualifying event in order to meet the requirements under COBRA if a second qualifying event occurs.

Summary of Qualifying Events, Qualified Beneficiaries, and Maximum Periods of Continuation Coverage

The following chart shows the maximum period for which continuation coverage must be offered for the specific qualifying events and the qualified beneficiaries who are entitled to elect continuation coverage when the specific event occurs. **Note that an event is a qualifying event only if it causes the qualified beneficiary to lose coverage under the plan.**

If a family experiences another qualifying event during the 18 months of COBRA continuation coverage, the spouse and dependent children can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if the Plan is properly notified about the second qualifying event. This extension may be available to the spouse and any dependent children getting COBRA continuation coverage if the employee or former employee dies; becomes entitled to Medicare benefits (under Part A, Part B, or both); gets divorced or legally separated; or if the dependent child stops being eligible under the Plan as a dependent child. This extension is only available if the second qualifying event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.

It is imperative the participant notifies the Plan Administrator within 60 days if there is a change in marital status or a child loses dependency status. Participants must notify the Plan Administrator within 30 days if a child is born or adopted. Failure to notify the Plan Administrator in a timely manner will result in the forfeiture of valuable benefits.

Maximum COBRA Periods

Termination (for reasons other than gross misconduct) or reduction in hours of employment	Employee Spouse Dependent Child	18 months
Employee enrollment in Medicare	Spouse Dependent Child	36 months
Divorce or legal separation	Spouse Dependent Child	36 months
Death of employee	Spouse Dependent Child	36 months
Loss of “dependent child” status under the plan	Dependent Child	36 months

Paying for COBRA

Once a qualified beneficiary has elected and paid for their first month of coverage, FlexBank will generate an introduction letter and COBRA coupons. All COBRA payments will be directed to FlexBank. We accept checks made payable to FlexBank as well as ACH payments. COBRA participants can set up one-time or ongoing ACH drafts via the participant portal on our COBRA website. A few things of note regarding payment of COBRA premiums:

Significant Payment Shortage - When a qualified beneficiary submits a COBRA premium payment that is more than $50 or 10% of the amount owed.

Insignificant Payment Shortage - When a qualified beneficiary submits a COBRA premium payment that is less than $50 or 10% of the amount owed.

COBRA Payment FAQs

- When are COBRA payments due? The COBRA premium will be due on the first of each month.

- Is there a grace period for payments? Yes, there is a 30 day grace period for the payment to be received by our office. For example, coverage for the month of September should be received on the 1st however; the COBRA participant has until September 30th to postmark their payment to FlexBank before it will be considered late.

- What if a qualifying beneficiary sends in a deficient payment (significant or insignificant) **and** has failed to make an election? In this case, FlexBank will accept the payment and notify the employee of the missing enrollment. If an enrollment form is not received within the 60 day enrollment period, the original payment will be returned to the participant and coverage will not commence.

- What if a qualified beneficiary enrolls but their ***first*** COBRA premium is less than the amount due? If a qualified beneficiary submits their first COBRA premium and the payment received is less than the amount due, the payment will be accepted. FlexBank will then generate a letter to the participant informing them they have ten (10) days to remit the amount due if their shortage was **significant** or 30 days to submit the difference if their shortage was **insignificant** based on the above definitions.

- What if ***ongoing*** COBRA payments are received for less than the amount due? If a qualified beneficiary submits a payment that is considered by the above definition to be a **significant shortage**, the payment will be accepted and a notification will go out via mail that the participant has until the end of the 30 day grace period to submit the remaining amount of the premium. If a qualified beneficiary submits a payment that is considered to be an **insignificant shortage** by the above definition, the payment will be accepted and the shortfall will be added to the next month’s premium.

- What happens if a participant’s COBRA check bounces or ACH fails due to insufficient funds? In the event a participant check is returned by our bank or an ACH fails, FlexBank will charge the participant a $25 returned transaction fee. FlexBank will send a letter to the participant explaining the check was returned, when replacement funds must be received, and also that a $25 fee has been assessed and must also be paid.

In the event a participant has a credit balance at the end of the 30 day grace period, but the balance is insufficient to pay the next month's premium, the payment will be refunded. FlexBank will notify you, the employer, and in turn, you will want to notify the carrier of the specific benefit termination date.

FlexBank will notify you when an employee has enrolled in COBRA and made their initial COBRA payment. We will also notify you when COBRA coverage has terminated. **You, the employer will then notify the carrier(s) for reinstatement of coverage. Likewise, when an employee fails to make a COBRA payment and coverage is cancelled, you, the employer, will reach out to the carrier(s) and notify them to terminate coverage.**

Qualified beneficiaries are not required to pay a premium at the time they make the COBRA election. Participants who elect within their 60 day election period without payment will be given 45 days from the date their enrollment form was received to make an initial premium payment. If a qualified beneficiary fails to make any payment before the end of the initial 45-day period, COBRA rights will be terminated.

If the amount of a payment made to the plan is incorrect, but is not significantly less than the amount due, FlexBank will notify the qualified beneficiary of the deficiency and grant a reasonable period (for this purpose, 30 days is considered reasonable) to pay the difference. The plan is not obligated to send monthly premium notices, but is required to provide a notice of early termination if continuation coverage is terminated early due to failure to make a timely payment. If a participant is terminated due to a late payment and can later prove the payment was made in a timely manner, FlexBank will communicate to the participant via mail that their COBRA has been reinstated.

COBRA charges to qualified beneficiaries may be increased if the cost to the plan increases but generally must be fixed in advance of each 12-month premium cycle. The plan must allow qualified beneficiaries to pay the required premiums on a monthly basis. All of the necessary information about COBRA premiums, when they are due, and the consequences of payment and nonpayment are described in the COBRA election notice.

Monthly Premium Disbursements

In order to accommodate the 30 day grace period for premium payments and seven days of mail time, FlexBank will reconcile our records and pass the prior month's collected premiums to the employer by the 15th business day of the month. Your daily contact will receive an email notifying them that your remittance report is available to download from our employer portal and when to expect the prior month's funds.

Health Coverage Tax Credit

Certain individuals may be eligible for a Federal income tax credit that can help with qualified monthly premium payments. The Health Coverage Tax Credit (HCTC), while available, is a refundable tax credit to pay for specified types of health insurance coverage (including COBRA continuation coverage).

Those potentially eligible for the HCTC include workers who lose their jobs due to the negative effects of global trade and who are eligible to receive certain benefits under the Trade Adjustment Assistance (TAA) Program, as well as certain individuals who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC). The HCTC pays 72.5 percent of qualified health insurance premiums, with individuals paying 27.5 percent. For more information on TAA, visit doleta.gov/tradeact/. Individuals who are eligible for the HCTC may claim the tax credit on their income tax returns at the end of the year. Qualified family members of eligible TAA recipients or PBGC payees who enroll in Medicare, pass away, or finalize a divorce, are eligible to receive the HCTC for up to 24 months from the month of the event.

Alternatives to COBRA

Those entitled to elect COBRA continuation coverage may have alternatives for coverage that may be more affordable or more generous. One option may be "special enrollment" in other group health coverage. Under the Health Insurance Portability and Accountability Act (HIPAA), upon certain events, group health plans and health insurance issuers are required to provide a special enrollment period during which individuals who previously declined coverage for themselves and their dependents, and who are otherwise eligible, may be allowed to enroll without having to wait until the next open season for enrollment. One event that triggers special enrollment is an employee or dependent of an employee losing eligibility for other health coverage. For example, an employee who loses group health coverage may be able to special enroll in a spouse's health plan. The employee or dependent must request special enrollment within **30** days of the loss of other coverage.

Losing employment-based health coverage also gives the employee an opportunity to enroll in the Health Insurance Marketplace (Marketplace) that serves the state in which the employee resides. The Marketplace offers "one-stop shopping" for individuals and small businesses to find and compare private health insurance options.

Through the Marketplace, individuals may be eligible for cost-sharing reductions and a tax credit that lowers monthly premiums. Being offered COBRA continuation coverage does not limit eligibility for coverage or for a tax credit through the Marketplace. The employee or dependent must select Marketplace coverage within **60** days before or **60** days after the loss of other coverage, or will have to wait until the next open enrollment period.

Through the Marketplace, individuals also can determine whether they or their dependents qualify for free or low-cost coverage from Medicaid or the Children's Health Insurance Program (CHIP). Eligible individuals can apply for and enroll in Medicaid and CHIP at any time. For more information about the

Marketplace, including information about Medicaid or CHIP eligibility, visit HealthCare.gov.

If an employee or dependent chooses to elect COBRA, the employee or dependent will have another opportunity to request special enrollment in another group health plan or the Marketplace once COBRA is exhausted. In order to exhaust COBRA coverage, the individual must receive the maximum period of COBRA coverage available without early termination.

An individual must request special enrollment within 30 days of the loss of COBRA coverage for coverage through another group health plan or select a plan within 60 days before or 60 days after the loss of COBRA coverage, for coverage through a Marketplace plan. If an employee or dependent chooses to terminate COBRA coverage early with no special enrollment opportunity at that time, they will have to wait to enroll in other coverage until the next open enrollment period for another group health plan or the Marketplace.

Coordination with other Federal benefit laws

The Family and Medical Leave Act (FMLA) requires an employer to maintain coverage under any "group health plan" for an employee on FMLA leave under the same conditions coverage would have been provided if the employee had continued working. Group health coverage that is provided under the FMLA during a family or medical leave is **not** COBRA continuation coverage, and taking FMLA leave is not a qualifying event under COBRA. A COBRA qualifying event may occur, however, when an employer's obligation to maintain health benefits under FMLA ceases, such as when an employee taking FMLA leave decides not to return to work and notifies an employer of his or her intent not to return to work.

The Affordable Care Act (ACA) provides additional protections for coverage under an employment-based group health plan, including COBRA continuation coverage. These protections include:

- ✓ Extending dependent child coverage to age 26;
- ✓ Prohibiting limits or exclusions from coverage for preexisting conditions;
- ✓ Banning lifetime or annual dollar limits on coverage for essential health benefits; and
- ✓ Requiring group health plans and insurers to provide an easy-to-understand summary of a health plan's benefits and coverage.

Some plan sponsors may have chosen to make only routine changes and generally keep the coverage under their health plan the same as it was on March 23, 2010. These grandfathered health plans are required to comply with some of the ACA protections (including those noted above), but not all.

Additional protections that may apply to non-grandfathered health plans include coverage for:

- ✓ Certain preventive services (such as blood pressure, diabetes and cholesterol tests, regular well-baby and well-child visits, routine vaccinations and many cancer screenings) without cost sharing; and
- ✓ Emergency services in an emergency department of a hospital outside your plan's network without prior approval from your health plan.

Role of the Federal Government

COBRA continuation coverage laws are administered by several agencies. The Departments of Labor and the Treasury have jurisdiction over private-sector group health plans. The Department of Health and Human Services administers the continuation coverage law as it applies to state and local government health plans.

The Labor Department's interpretive responsibility for COBRA is limited to the disclosure and notification requirements of COBRA. The Labor Department has issued regulations on the COBRA notice provisions. The Treasury Department has interpretive responsibility to define the required continuation coverage. The Internal Revenue Service, Department of the Treasury, has issued regulations on COBRA provisions relating to eligibility, coverage, and payment. The Departments of Labor and the Treasury share jurisdiction for enforcement of these provisions.

Service Agreement Termination

Terminating FlexBank Services
FlexBank requires a written notice within 30 days when terminating our services.