

Continuation Provision for Texas Employer Plans

State Continuation is a Texas law providing employees and dependents losing insurance benefits (because of specified events) the opportunity to continue the same health insurance benefits provided to active participants. The documentation for these regulations is found in the Texas Insurance Code - Section "Eligibility for Mandatory Group Conversion and Continuation Privileges." Please be careful when reviewing these provisions. They discuss conversion and continuation together; be sure to note the program when you look at a particular section. And remember, only groups that must abide by Texas mandates are required to comply with the State Continuation provisions.

Normally, after laws such as these are written, the Department of Insurance prepares "guidelines" to clarify certain provisions of the law. Unfortunately, TDI has yet to write the clarifying guidelines for these regulations. This has resulted in creative interpretations of the laws.

Many people are under the misconception that State Continuation is to provide continuation privileges only for participants of small employers not subject to COBRA. This is incorrect. While the Department of Insurance has not developed guidelines for the State Continuation law, they have explained that both small employers (less than 20) and large employers subject to State of Texas employee benefit laws must comply with this provision. COBRA participants may have the option of State Continuation at the END of COBRA continuation.

Who Sends the Notice and What Must it Say?

There is much confusion concerning who must notify the participants and what the notification must include. Presently, the Texas Insurance Code specifies the notice can be sent by either the insurer or the employer/group policyholder. We would rather see a "who MUST" clarification. Until the regulations are written by the State, this question will still be hanging in the air. It is the ultimate "anybody can – somebody better" scenario. The safest practice is to coordinate the communication with the particular carrier involved. Some carriers will send the notification or at least provide the words to be sent. The notice must provide the participant an explanation of their continuation rights:

- The time period allocated for making the election
- The premium amount
- The date the policyholder must receive the written election and first premium
- The length of time one may continue
- Any other continuation opportunities (conversion)
- The enrollment/election form
- The promulgated disclosure notice in English/Spanish

COBRA and State Continuation Together?

In reality, a Texas participant on a COBRA plan is entitled to 24 months of continuation (COBRA 18 and State Cont 6). Some plans have simply said, "we will just keep them on COBRA for 24 months." That is NOT the proper way to administer State Continuation. While the premium may be the same, there are eligibility differences between COBRA and State Continuation.

Continuation Provision for Texas Employer Plans (cont.)

STATE CONTINUATION

COBRA

STATE is for health benefit only

COBRA could include dental, vision, Rx and flexible spending account continuation

STATE has no premium payment grace period

COBRA has a minimum 30 day premium grace period

STATE has no second qualifying event provision

COBRA provides for second qualifying event eligibility for qualified beneficiaries on COBRA

While it looks the same to the participant, you can see it is important that they “know what they are on”! Texas also has other continuation requirements and options for participants losing coverage. For smaller groups, there is also a dependent continuation option that should be made available to dependents. This provision is only applicable to small employers and does not coordinate with COBRA. And be reminded, some carriers may still carry a conversion option provision in their contract.

See COBRA - Continuation - Conversion Comparison Chart on page 3 >

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COBRA Continuation: Conversion Comparison Chart

	COBRA Continuation	Employee/Dependent Texas State Continuation	Texas Dependent Continuation	Conversion
Group Size	20 or more employees	Under 20 employees AND after COBRA	Under 20 employees	Optional to carrier
Eligibility	Active on the plan one day before the qualifying event	Covered on group plan three months	Covered on group plan one year	Covered on group plan three months
Events	18 month events: <ul style="list-style-type: none"> - Reduction in work hours - Termination (except for gross misconduct) or retirement - Layoff 36 month events: <ul style="list-style-type: none"> - Death of employee - Legal separation or divorce - Medicare entitled - Child no longer eligible 	Terminated - except for cause	Employee: <ul style="list-style-type: none"> - Dies - Retires - Severance of a family relationship 	Lose group coverage
Employer Notification	14 days of notice or loss of coverage, whichever is later	30 days PRIOR to termination; OR immediately	Within 15 days of loss	Within 31 days of loss
Benefits	Same as group plan	Same as group health	Same as group health	Similar contract
Decision Time Frame	Election SENT 60 days from date of notice	Application and premium received within 31 days of termination or notification	Application and premium received within 60 days	Application and premium received within 31 days
Rates/ Grace Period	Same as active +2% SS disabled: 150% Grace Period: 45 days, initial payment; 30 days subsequent	Same as active +2% No grace period	Same as active + \$5 No grace period	Maximum 200% of group contract
Benefit Period Ends	18, 29 or 36 months OR <ul style="list-style-type: none"> - Payment not received - Group policy cancelled - Covered on other coverage including entitle to Medicare 	Six months OR <ul style="list-style-type: none"> - Payment not received - Group policy cancelled - eligible or covered for similar benefits including Medicare 	Three years OR <ul style="list-style-type: none"> - Payment not received - Group contact cancelled - Eligible under any other group plan 	- Payment not received