

**SAMPLE DOL COBRA NOTICES  
WITH USERRA LANGUAGE**

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Below is the Sample Initial COBRA Notice as published in the Federal Register May 28, 2003 (68 Fed. Reg. 31,832) by the Department of Labor's Employee Benefits Security Administration ("ERISA"), and the sample notice issued by the Internal Revenue Service in Notice 98-12. The EBSA proposed notice is for use only by single employer group health plans. Other plans, such as multiemployer plans and union-sponsored plans, may also use the sample notice, but would have to change the language to suit their specific needs. The Department of Labor advised that plans using the Model Notice issued in ERISA Technical Release No. 86-2, June 6, 1986, should **cease to do so**, as the 1986 Model Notice no longer accurately complies with statutory and regulatory requirements. The IRS notice is not required to be used, but may help employees in deciding whether they should elect COBRA continuation coverage.

**MODEL GENERAL NOTICE OF COBRA CONTINUATION COVERAGE RIGHTS**  
(For use by single-employer group health plans)

**PART I - CONTINUATION COVERAGE RIGHTS UNDER COBRA**

**Introduction.** You are receiving this Notice because you have recently become covered under the ABC, Inc. Group Health Plan (the "Plan"). **This Notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan.**

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"). COBRA continuation coverage can become available to you and to other members of your family who are covered under the Plan when you would otherwise lose your group health coverage. This Notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it. This Notice gives only a summary of your COBRA continuation coverage rights. For more information about your rights and obligations under the Plan and under federal law, you should either review the Plan's Summary Plan Description or get a copy of the Plan Document from the Plan Administrator.

The Plan Administrator is \_\_\_\_\_ [enter name, address and telephone number of Plan Administrator]. **[If the Plan Administrator administers COBRA continuation coverage, add the following:]** The Plan Administrator is responsible for administering COBRA continuation coverage. **[If the Plan Administrator does not administer COBRA continuation coverage, add the following:]** COBRA continuation coverage for the Plan is administered by \_\_\_\_\_

[enter name, address and telephone number of party responsible for administering COBRA continuation coverage].

**What is COBRA Continuation Coverage?** COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a “qualifying event”. Specific qualifying events are listed later in this Notice. COBRA continuation coverage must be offered to each person who is a “qualified beneficiary.” A qualified beneficiary is someone who will lose coverage under the Plan because of a qualifying event. Depending on the type of qualifying event, employees, spouses of employees, and dependent children of employees may be qualified beneficiaries. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage [**choose and enter appropriate information:**] must pay or are not required to pay for COBRA continuation coverage.

If you are an employee, you will become a qualified beneficiary if you will lose your coverage under the Plan because either one of the following qualifying events happens:

- (1) Your hours of employment are reduced; or
- (2) Your employment ends for any reason other than your gross misconduct.

If you are the spouse of an employee, you will become a qualified beneficiary if you will lose your coverage under the Plan because any of the following qualifying events happens:

- (1) Your spouse dies;
- (2) Your spouse's hours of employment are reduced;
- (3) Your spouse's employment ends for any reason other than his or her gross misconduct;
- (4) Your spouse becomes enrolled in Medicare (Part A, Part B, or both); or
- (5) You become divorced or legally separated from your spouse.

Your dependent children will become qualified beneficiaries if they will lose coverage under the Plan because any of the following qualifying events happens:

- (1) The parent-employee dies;
- (2) The parent-employee's hours of employment are reduced;
- (3) The parent-employee's employment ends for any reason other than his or her gross misconduct;
- (4) The parent-employee becomes enrolled in Medicare (Part A, Part B, or both);
- (5) The parents become divorced or legally separated; or

(6) The child stops being eligible for coverage under the plan as a “dependent child.”

**[If the Plan provides retiree health coverage, add the following paragraph:]**

Sometimes, filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to \_\_\_\_\_ **[enter name of employer sponsoring the plan]**, and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee is a qualified beneficiary with respect to the bankruptcy. The retired employee's spouse, surviving spouse, and dependent children will also be qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.

**When is COBRA Coverage Available?** The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction of hours of employment, death of the employee, **[add if Plan provides retiree health coverage:]** commencement of a proceeding in bankruptcy with respect to the employer, or enrollment of the employee in Medicare (Part A, Part B, or both), the employer must notify the Plan Administrator of the qualifying event **[choose and enter option applicable to this Plan:]** (1) within **30** days of any of these events or (2) within **30** days following the date coverage ends.

**You Must Give Notice of Some Qualifying Events.** For the other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), **you must notify** the Plan Administrator. The Plan requires you to notify the Plan Administrator within **60** days **[or enter longer period permitted under the terms of the Plan]** after the qualifying event occurs. **You must send this notice to:** \_\_\_\_\_ **[Enter name of appropriate party. Add description of any additional Plan procedures for this Notice, including a description of any required information or documentation.]**

**How is COBRA Coverage Provided?** Once the Plan Administrator receives Notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. For each qualified beneficiary who elects COBRA continuation coverage, COBRA continuation coverage will begin **[Enter the option applicable to this Plan:]** (1) on the date of the qualifying event or (2) on the date that Plan coverage would otherwise have been lost (such as the last day of the month in which a qualifying event occurred).

COBRA continuation coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, enrollment of the employee in Medicare (Part A, Part B, or both), your divorce or legal separation, or a dependent child losing eligibility as a dependent child, COBRA continuation coverage lasts for up to **36** months.

When the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA continuation coverage generally lasts for up to **18** months. There are two ways in which this **18** month period of COBRA continuation coverage can be extended.

1. **Disability Extension of 18-month Period of Continuation Coverage.** If you or anyone in your family covered under the Plan is determined by the Social Security Administration to be disabled at any time during the first **60** days of COBRA continuation coverage and **you notify** the Plan Administrator in a timely fashion, you and your entire family can receive up to an additional **11** months of COBRA continuation coverage, for a total maximum of **29** months. **[Insert and modify to reflect actual plan provisions on this Notice:] You must** make sure that the Plan Administrator is notified of the Social Security Administration's determination within **60** days of the date of the determination and before the end of the **18** month period of COBRA continuation coverage. This Notice should be sent to: \_\_\_\_\_ **[Enter name of appropriate party. Add description of any additional Plan procedures for this Notice, including a description of any required information or documentation.]**
  
2. **Second Qualifying Event Extension of 18-month Period of Continuation Coverage.** If your family experiences another qualifying event while receiving COBRA continuation coverage, the spouse and dependent children in your family can get additional months of COBRA continuation coverage, up to a maximum of **36** months. This extension is available to the spouse and dependent children if the former employee dies, enrolls in Medicare (Part A, Part B, or both), or gets divorced or legally separated. The extension is also available to a dependent child when that child stops being eligible under the Plan as a dependent child. In all of these cases, **you must make sure** that the Plan Administrator is **notified** of the second qualifying event within **60** days of the second qualifying event **[or enter longer period if permitted under the terms of the Plan]**. This Notice must be sent to: \_\_\_\_\_ **[Enter name of appropriate party. Add description of any additional Plan procedures for this Notice, including a description of any required information or documentation.]**

**Medical Flexible Spending Accounts (“FSAs”).** **[Optional Paragraph. For employers maintaining Medical FSAs, it should be noted that the DOL Notice did not specifically address this topic.]** If you participate in a Medical Flexible Spending Account maintained by ABC, you may make a separate COBRA election to continue the Medical FSA. Amounts contributed to the Medical FSA will be paid on an after-tax basis and will allow you to continue to be reimbursed in accordance with your original elections. It should be noted that an election to continue coverage under a Medical FSA may only be continued until the last day of the Plan Year in which a qualifying event occurs. **[It is important to confirm that the Flexible Benefits Plan document specifically limits the ability to continue Medical FSAs only until the end of the Plan Year in which a qualifying event occurs. Otherwise, employees may elect to continue Medical FSAs for a longer period of time. It is also important to note that although employees can continue to contribute to Medical FSAs with after-tax dollars, the election allows employees to be reimbursed up to the amount of their original elections. Accordingly, the “risk of loss shifting” continues to be transferred to the employer.]**

**Veterans Act.** Under the Veterans Benefits Improvement Act of 2004, coverage under the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”) was amended. The new rule provides that if you are called up to military active duty you will be given an opportunity to continue health coverage for yourself and your family for **24** months,

instead of **18** months. This extended period applies to individuals electing coverage beginning on or after December 10, 2004. Please note that coverage under USERAA is **not the same** as COBRA and different rules may apply in the event of various events, such as divorce or death. However, \_\_\_\_\_ has elected to apply the same procedures as for notification and election of COBRA coverage to the **24** month of USERRA coverage.

**If You Have Questions.** Questions concerning your Plan or your continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under the Employee Retirement Income Security Act (“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 in your area or visit the EBSA Web site at <http://www.dol.gov/ebsa/>. Addresses and telephone numbers of regional and district EBSA offices are available on the agency's Web site.

Please note that coverage under USERRA is not the same as COBRA coverage and different rules may apply in the event of various events, such as divorce or death. We are simply including the recognition of the Veterans Act extension coverage in this COBRA Notice to explain all rights to employees and potential qualified beneficiaries.

**Keep Your Plan Informed of Address Changes.** To protect your family's rights, you should keep the Plan administrator informed of any changes in the addresses of family members. You also should keep for your own records a copy of any notices you sent to the Plan administrator.

**Plan Contact Information** [Enter the name of the group health plan and the name or position, address, and telephone number of the party or parties from whom information about the plan and COBRA continuation coverage can be obtained on request.]

## PART II - IMPORTANT INFORMATION ABOUT YOUR COBRA CONTINUATION COVERAGE RIGHTS

**What is Continuation Coverage?** Federal law requires that most group health plans (including this Plan) give employees and their families the opportunity to continue their health care coverage when there is a “qualifying event” that would result in a loss of coverage under an employer's plan. Depending on the type of qualifying event, “qualified beneficiaries” can include the employee (or retired employee) covered under the group plan, the qualified beneficiary's spouse, and the dependent children of the qualified beneficiary.

Continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries under the Plan who is not receiving continuation coverage. Each qualified beneficiary who elects continuation coverage will have the same rights under the Plan as other participants or beneficiaries covered under the plan, including **[add if applicable:]** open enrollment and special enrollment rights.

**How long will Continuation Coverage last?** In the case of a loss of coverage due to end of employment or reduction in hours of employment, coverage generally may be continued only for up to a total of **18** months. In the case of losses of coverage due to an employee's death, divorce or legal separation, the employee's becoming entitled to Medicare benefits or a dependent child ceasing to be a dependent under the terms of the plan, coverage may be continued for up to a total of **36** months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than **18** months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until **36** months after the date of Medicare entitlement. This notice shows the **maximum period** of continuation coverage available to the qualified beneficiaries.

Continuation coverage will be terminated before the end of the maximum period if:

- a. Any required premium is not paid in full on time,
- b. A qualified beneficiary becomes covered, after electing continuation coverage, under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary,
- c. A covered employee becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- d. The employer ceases to provide any group health plan for its employees.

Continuation coverage may also be terminated for any reason the Plan would terminate coverage of a participant or beneficiary not receiving continuation coverage (such as fraud).

**[If the maximum period shown on page 1 of this notice is less than 36 months, add the following three paragraphs:]**

**How can you extend the length of COBRA Continuation Coverage?** If you elect continuation coverage, an extension of the maximum period of coverage may be available if a

qualified beneficiary is disabled or a second qualifying event occurs. You must notify \_\_\_\_\_ **[enter name of party responsible for COBRA administration]** of a disability or a second qualifying event in order to extend the period of continuation coverage. Failure to provide notice of a disability or second qualifying event may affect the right to extend the period of continuation coverage.

**Disability** An **11** month extension of coverage may be available if any of the qualified beneficiaries is determined by the Social Security Administration (SSA) to be disabled. The disability has to have started at some time before the **60th** day of COBRA continuation coverage and must last at least until the end of the **18** month period of continuation coverage. **[Describe Plan provisions for requiring notice of disability determination, including time frames and procedures.]** Each qualified beneficiary who has elected continuation coverage will be entitled to the **11** month disability extension if one of them qualifies. If the qualified beneficiary is determined by SSA to no longer be disabled, you must notify the Plan of that fact within **30** days after SSA's determination.

**Second Qualifying Event.** An **18** month extension of coverage will be available to spouses and dependent children who elect continuation coverage if a second qualifying event occurs during the first **18** months of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is **36** months. Such second qualifying events may include the death of a covered employee, divorce or separation from the covered employee, the covered employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), or a dependent child's ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. You must notify the Plan within **60** days after a second qualifying event occurs if you want to extend your continuation coverage.

**How can you elect COBRA continuation coverage?** To elect continuation coverage, you must complete the Election Form and furnish it according to the directions on the form. Each qualified beneficiary has a separate right to elect continuation coverage. For example, the employee's spouse may elect continuation coverage even if the employee does not. Continuation coverage may be elected for only one, several, or for all dependent children who are qualified beneficiaries. A parent may elect to continue coverage on behalf of any dependent children. The employee or the employee's spouse can elect continuation coverage on behalf of all of the qualified beneficiaries.

In considering whether to elect continuation coverage, you should take into account that a failure to continue your group health coverage will affect your future rights under federal law. First, you can lose the right to avoid having pre-existing condition exclusions applied to you by other group health plans if you have more than a **63-day** gap in health coverage, and election of continuation coverage may help you not have such a gap. **Second**, you will lose the guaranteed right to purchase individual health insurance policies that do not impose such pre-existing condition exclusions if you do not get continuation coverage for the maximum time available to you. Finally, you should take into account that you have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are

otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage ends because of the qualifying event listed above. You will also have the same special enrollment right at the end of continuation coverage if you get continuation coverage for the maximum time available to you.

**How much does COBRA continuation coverage cost?** Generally, each qualified beneficiary may be required to pay the entire cost of continuation coverage. The amount a qualified beneficiary may be required to pay may not exceed **102%** (or, in the case of an extension of continuation coverage due to a disability, **150%**) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated plan participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

**[If employees might be eligible for benefits under the Trade Adjustment Assistance Act, the following information may be added:]** The Trade Adjustment Assistance Act of 2002 created a new tax credit for certain individuals who become eligible for trade adjustment assistance and for certain retired employees who are receiving pension payments from the Pension Benefit Guaranty Corporation (“PBGC”) (eligible individuals). You may be eligible for this assistance if you become unemployed as a result of increased imports or the shifting of production to other countries. Under the new tax provisions, eligible individuals can either take a tax credit or get advance payment of **65%** of premiums paid for qualified health insurance, including continuation coverage, 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](http://www.doleta.gov/tradeact/2002act_index.asp).

**When and how must payment for COBRA continuation coverage be made?**

- a. **First Payment for Continuation Coverage.** If you elect continuation coverage, you do not have to send any payment with the Election Form. However, you must make your first payment for continuation coverage not later than **45** days after the date of your election. (This is the date the Election Notice is post-marked, if mailed.) If you do not make your first payment for continuation coverage in full not later than **45** days after the date of your election, you will lose all continuation coverage rights under the Plan. You are responsible for making sure that the amount of your first payment is correct. You may contact \_\_\_\_\_ **[enter appropriate contact information, e.g., the Plan Administrator or other party responsible for COBRA administration under the Plan]** to confirm the correct amount of your first payment.
- b. **Periodic Payments for Continuation Coverage.** After you make your first payment for continuation coverage, you will be required to make periodic payments for each subsequent coverage period. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due on the \_\_\_\_\_ **[enter due day for each monthly payment]** for that coverage period. **[If Plan offers other payment schedules, enter with appropriate dates:]** You

may instead make payments for continuation coverage for the following coverage periods, due on the following dates: \_\_\_\_\_. If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan **[select one:]** will or will not send periodic notices of payments due for these coverage periods.

- c. **Grace Periods for Periodic Payments.** Although periodic payments are due on the dates shown above, you will be given a grace period of **30** days after the first day of the coverage period **[or enter longer period permitted by Plan]** to make each periodic payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage period is made before the end of the grace period for that payment. **[If Plan suspends coverage during grace period for nonpayment, enter and modify as necessary.]** However, if you pay a periodic payment later than the first day of the coverage period to which it applies, but before the end of the grace period for the coverage period, your coverage under the Plan will be suspended as of the first day of the coverage period and then retroactively reinstated (going back to the first day of the coverage period) when the periodic payment is received. This means that any claim you submit for benefits while your coverage is suspended may be denied and may have to be resubmitted once your coverage is reinstated.

If you **fail to make** a periodic payment before the end of the grace period for that coverage period, you will lose all rights to continuation coverage under the Plan.

Your first payment and all periodic payments for continuation coverage should be sent to: \_\_\_\_\_ **[enter appropriate payment address].**

- d. **Medical Flexible Spending Accounts (“FSAs”).** **[Optional Paragraph. For employers maintaining Medical FSAs, it should be noted that the DOL Notice did not specifically address this topic.]** If you participate in a Medical Flexible Spending Account maintained by ABC, you may make a separate COBRA election to continue the Medical FSA. Amounts contributed to the Medical FSA will be paid on an after-tax basis and will allow you to continue to be reimbursed in accordance with your original elections. It should be noted that an election to continue coverage under a Medical FSA may only be continued until the last day of the Plan Year in which a qualifying event occurs. **[It is important to confirm that the Flexible Benefits Plan document specifically limits the ability to continue Medical FSAs only until the end of the Plan Year in which a qualifying event occurs. Otherwise, employees may elect to continue Medical FSAs for a longer period of time. It is also important to note that although employees can continue to contribute to Medical FSAs with after-tax dollars, the election allows employees to be reimbursed up to the amount of their original elections. Accordingly, the “risk of loss shifting” continues to be transferred to the employer.]**

**For More Information.** This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your summary plan description or from the Plan Administrator.

If you have any questions concerning the information in this Notice, your rights to coverage, or if you want a copy of your Summary Plan Description, you should contact \_\_\_\_\_ [enter name of party responsible for COBRA administration for the Plan, with telephone number and address].

For more 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 U.S. Department of Labor's Employee Benefits Security Administration (“EBSA”) in your area or visit the EBSA website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa). Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.

**Keep Your Plan Informed of Address Changes.** In order to protect your and your family's rights, you should keep the Plan Administrator informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

**If You Have Questions.** If you have questions about your COBRA continuation coverage, you should contact \_\_\_\_\_ [enter name of appropriate party] or you may contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (“EBSA”). Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website at <http://www.dol.gov/ebsa>.

**Keep Your Plan Informed of Address Changes.** In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator. Internal Revenue Service.