



Your Right to HealthCare Coverage When Leaving or Switching Jobs

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A Consumer's Guide to Accessing Health Care Through Employment

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Know Your Rights to HealthCare Coverage When Leaving or Switching Jobs!

When a person decides to take a new job or leave an existing job, an important issue to consider is the impact of this change on existing healthcare and the ability to obtain healthcare from the new employer. State and Federal Laws provide some protections for persons who are leaving a job, regardless of whether they are leaving for a new job. This brochure provides a general overview of the rules around moving from one employer sponsored healthcare coverage to another and the rules around moving from employer sponsored healthcare coverage to individual health insurance. For more information regarding rules around pre-existing condition exclusion and waiting periods generally, including obtaining health insurance when you are uninsured, please see the Pennsylvania Health Law Project's brochure on Pre-Existing Condition Rules on our website at www.phlp.org.

The Health Insurance Portability and Accountability Act (HIPAA) and the Consolidated Omnibus Budget Reconciliation Act (COBRA) provide some protections for individuals leaving employer-sponsored group health insurance.

What is Group Health Insurance?

Group health insurance is insurance purchased by an employer, union or professional association from an insurance company. The employer, union or professional association then offers its employees the opportunity to purchase their health plans. The health plans can vary from HMO to fee-for-service plans covering a range of benefits and containing different eligibility requirements.

What you should know when leaving employer-sponsored group health insurance?

If you are leaving a job through which you have health insurance and the insurance is "group health insurance" :

- You may have rights under the HIPAA which protect you and your dependents by limiting pre-existing condition exclusion period.
- COBRA may give you the opportunity to purchase temporary extended health care benefits offered by your former employer while looking for a new job or during a waiting period imposed by a new employer.

Do Cobra protections Apply to You?

COBRA is a federal law which gives employees and their dependants who leave an employer's group health plan the opportunity to purchase and maintain coverage under the plan for a fixed period of time. (18 - 36 months). COBRA can be used to maintain coverage, as well as, eligibility for HIPAA protections.

- If you are between jobs, COBRA can help you avoid a "significant break in coverage."
- COBRA can help you maximize your "creditable coverage."
- COBRA can give you coverage through a new job's waiting period.

In order to receive the protections offered by COBRA, you must meet one of the following requirements:

- You must work for an employer with 20 or more employees.
- You must be covered under the employer's group health plan as an employee
- You must have a qualifying event that would cause you to lose your health plan.

Note: If you are looking for individual health insurance, you *must* take and exhaust COBRA that is offered to you in order to qualify as a HIPAA eligible individual and receive the protections offered by HIPAA.

If COBRA Protections Apply to You:

If COBRA protections apply to you, you (including your spouse and dependent children) might be able to continue to be covered under your former employer's group health insurance policy for a fixed number of months. You would be able to purchase the insurance at cost plus 2% for administrative expenses (which is often higher than the cost you paid for it while you were employed) and maintain the same benefit package you had, etc. until you choose to change coverage, or find another employment with coverage.

Coverage can be continued for 18 months; 29 months if you become eligible for social security disability during the first 60 days of COBRA continuation; 36 months if you were insured through your spouse's or parent's group coverage and the spouse or parent has died, divorced, or separated. COBRA also applies to dependent children who lose coverage because they reach maximum age limits.

COBRA does not apply if the employer terminates the plan. Also, if the employer

goes out of business and cancels the plan or fails to pay the premium, the coverage stops and COBRA does not apply. COBRA only applies when the group policy remains in force. It applies if the employer changes group plans, but not if the plan is completely terminated.

COBRA applies to all employers of 20 or more workers. This includes self-insured employers, but does not apply to plans sponsored by the federal government or certain church related organizations as defined by federal law.

Do HIPAA's Protections Apply to You?

The Health Insurance Portability and Accountability Act of 1996, otherwise known as HIPAA, provides rights and protections under group health plans. HIPAA may also give you a right to purchase individual coverage if you have no group health plan coverage available, and have exhausted COBRA or other continuation coverage.

In order to receive the protections from HIPAA, you must meet ALL of the following requirements:

- You must have at least 18 months of continuous creditable coverage of which at least the last day must have been under an employer group health plan.
- You must apply for health insurance as a HIPAA eligible individual no later than 63 days after losing your group coverage (without a "significant break in coverage")
- You must have used up any COBRA or state continuation coverage for which you were eligible.
- You must not be currently eligible for coverage under Medicare, Medicaid or another group health plan.
- You must not presently have health insurance (but if you know your group health coverage is about to end, you can apply for HIPAA but it won't go into effect until your group coverage ends)
- You must not have lost your previous coverage due to non-payment or fraud

If HIPAA Protections Apply to You:

If HIPAA protections apply to you, you will be considered an "eligible" individual able to enter new group health insurance or new individual health insurance plans as follows:

What HIPAA Protections Are Provided to an "Eligible Individual" Who is Seeking Group Health Insurance?

- Group health plans cannot apply a pre-existing condition exclusion period for pregnancy, newborns or newly adopt children.
- Group health plans that impose pre-existing exclusion periods must give you credit for any previous continuous creditable coverage that you've had.
 - Creditable coverage is any health insurance coverage you have had in the past - whether under another group plan, an individual health insurance policy, Medicaid, Medicare, HMO, or a State high risk pool.
 - Your exclusion period is reduced by a day for each day of creditable coverage you have, unless there was a significant break in coverage (period of 63 without creditable coverage).
 - Previous group plans and previous insurers are required to give you a "certificate of coverage" to be used to prove your creditable coverage.
- Group health plans can only exclude covering for preexisting conditions for a limited time (Maximum exclusion is for 12 months).
- Group plans can count as preexisting conditions ONLY those conditions, which you received a diagnosis, treated, or medical advice within 6 months before you joined the plan.
- You must be given a special opportunity to sign up for your group plan if certain changes happen to your family.
 - A special enrollment period is available if a person with other health coverage loses that coverage or if a person becomes a new dependent through marriage, birth or adoption. A request for this special enrollment period must be made within 30 days of losing coverage or becoming a new dependent.
- You cannot be turned away or charged more because of your health status.

What HIPAA Protections are Provided to an "Eligible Individual" Who is Seeking Individual Health Insurance?

- Individual health plans are guaranteed for certain individuals with prior group coverage.
- Individual health plans operating in your region must offer you a choice of at least two state-approved plans (through an insurer or a high risk pool).
- Individual health plans cannot apply a pre-existing condition exclusion period for pregnancy, newborns or newly adopted children.
- The individual health plans cannot impose a pre-existing condition exclusion period.
- HIPAA eligibility ends when you enroll in individual coverage, because the last day of your continuous health coverage must have been in a group plan.

What Rights does one have to Renew an Insurance Policy?

Beyond the protections described above, HIPAA guarantees, in most cases, that both employers and individuals who buy insurance can renew the coverage regardless of the current health of those covered under the policy.

For questions about ...

Individual and Group Health Insurance contact:

Pennsylvania Department of Insurance Regional Consumer Office, (877) 881-6388, <http://www.insurance.state.pa.us/>

COBRA continuation coverage contact:

US Department of Labor Employer Benefits Security Administration Employee and Employer Assistance Hotline and Publication, (866) 444-3272, <http://www.dol.gov/ebsa/>

For more information, call:
Pennsylvania Health Law Project
Helpline at (800) 274-3258

For more information about the Pennsylvania Health Law Project, visit:
www.phlp.org