State Continuation of Health Insurance Coverage

Mini-COBRA*SC Code of Laws Section 38-71-770*

Property of the South Carolina Department of Insurance

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Mini-COBRA at a Glance

South Carolina insurance law permits employees and their dependents to continue under their former employer's health insurance coverage in certain circumstances.

This law, commonly referred to as "mini-COBRA," applies to coverage for employers with less than 20 employees (as COBRA kicks in for larger employers – see more under Federal COBRA section on this).

This law provides that former employees and dependents have the right to continue to remain on the employer's group coverage if the reason for their loss of coverage is not due to non-payment of premiums. Coverage will continue for the fractional policy month remaining plus six additional policy months. The former employee or dependent must pay all premiums owed during that time.

The law applies to health insurance issuers, so the employer must have purchased a fully insured health insurance plan for mini-COBRA to apply.

The South Carolina Department of Insurance does not regulate self-funded plans, regardless of size.

Footnote: SC code 38-71-770

Individuals Eligible for Mini-COBRA

Continuation is extended to any employee or member who has been continuously insured for six consecutive months under the same employer's group policy, including replacement plans.

The continuation privilege extends to:

- Employees and members who lose coverage under the group policy
- Dependents who lose coverage upon reaching the limiting age
- Spouses and children who lose coverage by the death of the employee or member
- Spouses and children who lose coverage as the result of ceasing to be qualified as a family member (ex, due to divorce)

If there are instances in which coverage is lost by an individual who does not fit in any of the categories listed above, the Department urges that continuation of coverage nonetheless be offered and that "employee or member " be construed broadly to cover any individual who was covered under the group policy. For example, this may include extending coverage to a spouse when the employee goes on Medicare.

Conditions of Eligibility for Mini-COBRA

The six-month continuation of coverage provision applies only to employees and members, or other eligible classes of individuals discussed above, who have been covered under the group policy for at least six months. The full premium for the coverage must be paid by the individual before the date each month that the group policy begins. Continuation of coverage applies only if the group policy or a successor policy remains in force.

A successor policy is one with an effective date sixty-two (62) days or less after the date of the termination of coverage by the prior health insurance issuer. Therefore, if a group policy replacement occurs and individuals who were insured under the prior policy for at least six months lose coverage, the successor insurer must provide six months' continuation of coverage to those individuals.

Notification of Mini-COBRA Privilege

Each individual certificate of coverage must include a notice of the employee's right to continue their group health insurance policy. South Carolina law requires that the employer advise the employee of his right to continuation, of the amount of the premium required for such coverage, and of his responsibility to timely pay the premium. Although not required, the employer may give written notice of the right to continue group health coverage (sample notice attached).

How to Elect Mini-COBRA

The employee or dependent must advise the employer if they elect to continue their group health insurance policy. If elected, coverage will be on the same basis as if the employment/dependent status had not changed.

All premiums required to bring the coverage current must be paid to the employer upon the election to continue coverage. The coverage shall be reinstated retroactive to the date of termination or loss of eligibility.

All subsequent continuation premiums must be paid to the employer in advance.

Important! There is **NO GRACE PERIOD FOR PREMIUM PAYMENTS**.

Premiums must be paid on or before each due date.

Termination of Mini-COBRA

State Continuation will end on the earliest of the following dates:

- 6 months after the beginning date of the first full month of coverage under state continuation
- The date ending the period for which the continuation participant last makes a premium payment
- The date the continuation participant becomes or is eligible to become covered for similar benefits under any form of group health coverage or Medicare; or
- The date the group policy is terminated

Rights and Responsibilities

The employer is responsible for:

- Advising all eligible employees and dependents of their eligibility for mini-COBRA
- Accepting and remitting premium payments to the insurance company in accordance with plan guidelines.

The employee has the right to receive:

- Notification of his or her continuation rights - notification can be verbal or in writing; and
- The opportunity to continue his or her health insurance coverage in accordance with state mini-COBRA laws.

The employee is responsible for:

- Notifying the employer if they wish to accept the continuation of health insurance
- Paying premiums on time and in a manner satisfactory to the employer **(IMPORTANT REMINDER: THERE IS NO PREMIUM PAY MENT GRACE PERIOD AFTER THE DUE DATE)**
- Being aware of all plan guidelines and continuation rules

Individuals Not Eligible for Mini-COBRA

The following are examples of individuals that are not covered under South Carolina's mini-COBRA law:

- Individuals eligible for other group coverage with similar benefits
- Individuals eligible for governmental plans (e.g., Medicare)
- Individuals covered by a self-funded group plan
- Individuals covered under an employer's group plan that has more than 20 employees; as these individuals are eligible for COBRA (see CO BRA section below for more details)
- Individuals that lost their group coverage due to non-payment of premium
- Individuals that have not been continuously insured under the group's policy for at least six months

Federal COBRA

COBRA is a federal law that applies to group health plans sponsored by employers with 20 or more employees in the prior year. These plans must offer employees and their families the opportunity for a temporary extension of health coverage for up to 18 months.

It applies to plans in the private sector; including self-funded plans and those purchased through a health insurance issuer. It also applies to plans sponsored by state and local governments. COBRA does not apply to a church plan, plans covering less than 20 employees, or plans covering federal employees.

Detailed information concerning your rights under federal COBRA laws can be obtained from the Employee Benefits Security Administration (EBSA) of the U. S. Department of Labor, at (866) 444-3272 or https://www.dol.gov/general/topic/health-plans/cobra.

FAQs

Can my health coverage change if I'm covered under mini-COBRA?

Yes. You will be covered on the on the same basis as all active employees. If your employer changes health insurance coverage for those employees, your coverage would change, too.

How much does mini-COBRA cost?

You will be responsible for the full cost of the premiums for your health insurance. This would include the portion previously paid by your employer (if any) and the portion previously deducted from your paycheck.

Does mini-COBRA affect eligibility through the Health Insurance Marketplace (Healthcare.gov)?

If you elect mini-COBRA, it must be exhausted before you would be eligible for coverage. You would then be eligible for a Special Enrollment Period to enroll in health insurance coverage in the individual market. You also have the option to waive mini-COBRA and sign up for individual market coverage once your employer-sponsored coverage ends. You may need to request a Special Enrollment Opportunity to do so (if you are outside of the annual Open Enrollment Period).

Is a church plan required to offer mini-COBRA?

There is no specific exemption included in South Carolina's mini-COBRA laws for church plans. Health insurance issuers that offer group coverage to churches or religious organizations would not be permitted to waive this statutory requirement for such coverage.

My employer has a self-funded health plan with less than 20 employees, but will not offer mini-COBRA. Why?

Self-funded health plans is a self-insurance arrangement whereby an employer provides health or disability benefits to employees using the company's own funds. These may be administered by an insurance company, but are not insurance products. South Carolina's law applies to health insurance issuers that provide insured health coverage products to employers with less than 20 employees. The employer is not subject to state health insurance regulations.

What happens if my employer cancels the group policy and does not replace the coverage?

The right to continue your health insurance will cease.

What happens if the employer changes insurance carriers or switches to a new plan?

If the employer changes carriers or switches plans, you are entitled to continue under the new plan or successor plan for any unexpired portion of your six months of mini-COBRA that are remaining.

How to Contact the SC Department of Insurance

Contact Our Office of Consumer Services with Questions

The SCDOI's Office of Consumer Services can help answer your questions about mini-COBRA, health insurance, or other types of insurance.

Email: consumers@doi.sc.gov |
Call: 803-737-6180 | Toll-Free: 1-800-768-3467
8:00 a.m. - 6:00 p.m. (Mon. - Thurs.) and 8:00 a.m. - 5:00 p.m. (Fri.)

File an Insurance Complaint

If you're having a specific problem with an insurance company relating to mini-COBRA, file a complaint with our Office of Consumer Services at doi.sc.gov/complaint.

State Continuation of Health Insurance Coverage: Mini-COBRA

Sample Employer Notice

IMPORTANT INFORMATION: Option to Continue Health Insurance Coverage and other Health Coverage Options

Date: _____

Employer Name:

_____

Address: _____

City, State ZIP: _____

Dear [enter name(s) of qualified beneficiary(ies)],

This notice has important information about your right to continue your health insurance coverage in the [*enter name of group's health plan*]. It also has information about other coverage options that may be available to you.

Why am I getting this notice?

You're getting this notice because your health insurance coverage will end on [*enter date*] due to:

- ☐ End of employment
- ☐ Death of employee
- ☐ Loss of dependent child status
- ☐ Divorce or legal separation
- ☐ Other _____

South Carolina insurance law permits employees and their dependents to continue under their former employer's health insurance coverage in certain circumstances. This law, commonly referred to as "Mini-COBRA," provides that former employees and dependents have the right to continue to remain on the employer's group coverage if the reason for their loss of coverage is not due to non-payment of premiums.

What's Mini-COBRA?

Mini-COBRA is the same health insurance coverage that is provided to other participants or beneficiaries who aren't getting continuation coverage. [It does not include dental insurance or life insurance.] It allows you to continue your health insurance coverage in the [*enter name of group's health plan*] for the remainder of the month that coverage would otherwise end plus six months.

If I elect Mini-COBRA, when will my coverage begin and how long will the coverage last?

If elected, your coverage will begin on [*enter date*] and can last until [*enter date*]. Your coverage may end before the date noted above in certain circumstances, like failure to pay premium or if the individual becomes covered under another group health plan.

How much does Mini-COBRA coverage cost?

Your coverage will cost: [*enter amount each qualified beneficiary will be required to pay for each option per month of coverage and any other permitted coverage periods.*]

When are my premium payments due?

You must make your first payment for continuation coverage no later than ____days after the date of your election.

If you do not make your first payment for continuation coverage in full no later than ____ days after the date of your election, you will lose all continuation coverage rights.

After you make your first payment for continuation coverage, you will be required to make monthly payments for each subsequent coverage period. Each of these monthly payments for continuation coverage is due on the [*enter due date for each monthly payment*] for that coverage period.

IMPORTANT REMINDER: THERE IS NO PREMIUM PAYMENT GRACE PERIOD AFTER THE DUE DATE!

Your first payment and all periodic payments for continuation coverage should be sent to:

[*enter appropriate payment address*]

Are there other coverage options besides Mini-COBRA?

Yes. You are entitled to what's called a "special enrollment period" that will allow you to purchase coverage in the individual health insurance market, including through the Health Insurance Marketplace (www.Healthcare.gov). You may also have the option to enroll in another group health plan (such as a spouse's plan).

You should compare your other coverage options with Mini-COBRA to determine what's best for you.

State Continuation of Health Insurance Coverage: Mini-COBRA

Election Form

Instructions: To elect Mini-COBRA continuation coverage, complete this Election Form and return it to us.

Send completed Election Form to: [*Enter Name and Address*]

This Election Form must be completed and returned by mail [*or describe other means of submission and due date*]. If mailed, it must be post-marked no later than [*enter date*].

If you don't submit a completed Election Form by the due date shown above, you'll lose your right to elect Mini-COBRA continuation coverage. If you reject Mini-COBRA continuation coverage before the due date, you may change your mind as long as you submit a completed Election Form before the due date. However, if you change your mind after first rejecting Mini-COBRA continuation coverage, your Mini-COBRA continuation coverage will begin on the date you submit the completed Election Form.

_____ Yes, I would like to elect Mini-COBRA Continuation Coverage

(if yes, complete election section below)

_____ No, I am declining Mini-COBRA Continuation Coverage

I (We) elect Mini-COBRA continuation coverage:

Name	Date of Birth	Relationship to Employee	SSN (or other identifier)
a.			
b.			
c.			

_____ _____

Signature *Date*

_____ _____

Print Name *Relationship to individual(s) listed above*

Address: Telephone Number:

_____ _____

_____

_____