

Employer's COBRA Compliance Checklist

Could you defend your method of COBRA Administration to an IRS agent or judge?

Do you:

- Use written notifications?
- Update these notifications whenever COBRA law changes?
- Send each employee and dependent spouse an initial COBRA notification to his or her home address when first enrolled in your group health plan?
- Send a qualifying event notification to the home address of each qualified beneficiary whenever a COBRA qualifying event occurs?
- Know which events trigger the right to COBRA continuation coverage and which individuals may be entitled to that coverage?
- Know how to administer all of the new COBRA Medicare and disability extension rules?
- Know when administration fees must be reduced from the maximum of 150% to 102%?
- Grant mandated extensions of COBRA coverage to the appropriate beneficiaries within the legal time limits?
- Know under which circumstances termination of COBRA coverage is lawfully permitted?
- Notify qualified beneficiaries of conversion options during the required timeframe?
- Keep detailed records of all COBRA-related events? Do you retain copies of all notices sent, including information about the methods of delivery used? Do you keep accurate premium collection records?
- Stay on top of changes in the law as they occur?
- Have a method in place to maintain "institutional" memory when the individual responsible for administering COBRA leaves your employ?

If you answered NO to any of these questions, you are exposed to the risk of IRS and ERISA penalties, as well as costly civil lawsuits.

Do you know your potential liability?

- > IRS penalty: \$100 per day per violation, \$200 per day per family
- > ERISA penalty: \$110 per day per violation
- > Claims penalty: Employer must pay claims to "make the person whole"
- > Damages: Levied by a judge in litigation
- > Attorney fees: Awarded by the judge

The average cost to defend COBRA litigation is \$45,000—and it takes just ONE. And you may not have any protection under your business insurance so check with your agent.