

DEPARTMENT OF LABOR**Employee Benefits Security
Administration****29 CFR Part 2590****RIN 1210-AA60****Health Care Continuation Coverage,
Correction****AGENCY:** Employee Benefits Security Administration, Labor.**ACTION:** Final rule, technical corrections.

SUMMARY: The Department published in the **Federal Register** of May 26, 2004, (69 FR 30084) final rules implementing the notice requirements of the health care continuation coverage (COBRA) provisions of part 6 of title I of the Employee Retirement Income Security Act of 1974 (ERISA or the Act). This document makes technical corrections to one of the final rules and to a model notice published in an appendix to one of the final rules.

DATES: *Effective date:* The regulations that are being corrected are effective on July 26, 2004, and these corrections are effective July 26, 2004.

Applicability date: The regulations that are being corrected apply to notice obligations arising under the COBRA provisions of part 6 of title I of ERISA on or after the first day of the first plan year beginning on or after the date that is six months after May 26, 2004.

FOR FURTHER INFORMATION CONTACT: Lisa M. Alexander or Suzanne M. Adelman, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693-8500. this is not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 26, 2004, the Department of Labor published final regulations on the notice provisions of part 6 of title I of ERISA. The regulations comprise four sections. Section 2590.606-1 establishes the time frames within which the general notice of continuation coverage must be provided and describes the specific information that the general notice must contain. Paragraph (d) of § 2590.606-1 permits delivery of a single notice addressed to a covered employee and the covered employee's spouse at their joint residence, provided that the plan's latest information indicates that both reside at that address. paragraph (d) states, on page 30097, that "nothing in this section shall be construed to create a requirement to provide a separate notice to dependent children who share a residence with a covered employer or a covered employee's spouse to whom notice is provided in accordance with

this section.” The term “covered employer” in this sentence is an inadvertent error and should instead be “covered employee.”

In an appendix to § 2590.606–4, the Department also published a Model COBRA Continuation Coverage Election Notice for use by single-employer group health plans. The section of the model notice entitled “Important Information About Your COBRA Continuation Coverage Rights” states, on page 30108, that continuation coverage will be terminated before the end of the maximum period if, among other things, “a covered employee becomes entitled

to Medicare benefits (under part A, Part B, or both) after electing continuation coverage.” The term “covered employee” on this page is an inadvertent error and should be changed “qualified beneficiary.”

This correction replaces two phrases with the correct terminology to prevent confusion and improve the clarity of the regulation and model notice.

■ Accordingly, in the Health Care Continuation Coverage Final Rule, FR Doc. 04–11796, published in the **Federal Register** on May 26, 2004, on pages 30084–112, make the following corrections:

§ 2590.606–1 [Corrected]

■ 1. On page 30097, in the third column, in paragraph (d), which is entitled *Single notice rule*, in the last sentence, remove the words “covered employer” and add in their place the words “covered employee.”

Appendix to § 2590.606–4 [Corrected]

■ 2. On page 30108, in the appendix to § 2590.606–4, the page titled “Important Information About Your COBRA Continuation Coverage Rights” is revised to read as follows:

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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 health plan, the covered employee’s spouse, and the dependent children of the covered employee.

Continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries under the Plan who are 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:

- any required premium is not paid in full on time,
- 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,
- a qualified beneficiary becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- 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:]

Signed at Washington, DC, this 15th day of
June, 2004.

Ann L. Combs,

*Assistant Secretary, Employee Benefits
Security Administration, Department of
Labor.*

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