

COBRA Disability Extension Flowchart

A Lexis Practice Advisor® Practice Note by Gabriel S. Marinaro, Katten Muchin Rosenman LLP



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This flowchart describes the requirements for qualifying for the disability extension of the maximum COBRA coverage period. For more information, see COBRA Compliance and Enforcement.

If a Qualified Beneficiary (QB) is either determined by the Social Security Administration to be:

- disabled within the first 60 days of COBRA continuation coverage where the QB qualified for such coverage due to a termination of employment or reduction in hours; or
- no longer disabled

If disabled, QB must have at least 60 days after the latest of the following to furnish a notice:

- date of the covered employee's termination of employment or reduction in hours
- date on which the QB loses (or would lose) coverage under the plan as a result of a qualifying event
- date of the disability determination by the SSA
- date QB is informed through either the SPD or initial COBRA Notice of Responsibility to provide this notice and the plan's procedures for providing such notice
- Plan can require that notice must be furnished prior to the expiration of the first 18 months of COBRA coverage

If determined to be no longer disabled, QB must have at least 30 days from the later of the following to provide notice to the COBRA administrator:

- date of the final determination by SSA that QB is no longer disabled; or
- date QB is informed through either the SPD or initial COBRA Notice of Responsibility to provide this Termination of Disability Notice

If COBRA administrator determines that the QB is entitled to COBRA coverage, the COBRA administrator shall provide the COBRA Qualifying Event Notice within 14 days of receipt of QB's notice

Must provide QB with COBRA election period that is at least 60 days after the later of:

- the date the QB loses coverage on account of the termination of employment or reduction in hours; or
- the date the COBRA Qualifying Event Notice is provided to the QB

COBRA Coverage that is extended due to disability (i.e. from 18 to 29 months) can be terminated on the later of:

- either 29 months after the date of the qualifying event, or the first day of the month that is more than 30 days after the date of the final determination by SSA that QB is no longer disabled, whichever is earlier; or
- the end of the maximum coverage period that applies to the QB without regard to any disability extension





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Gabriel Marinaro serves as special counsel in the Employee Benefits and Executive Compensation group. His practice focuses on all aspects of employee benefits and executive compensation. He regularly counsels publicly traded and privately held companies, tax-exempt organizations, and governmental entities on a variety of employee benefits and executive compensation matters. Gabe regularly advises both employers and executives on a wide range of executive compensation matters, including drafting employment agreements, equity compensation arrangements, severance agreements and bonus plans. Gabe provides guidance on nonqualified deferred compensation plans both for for-profit companies and tax-exempt clients. Gabe regularly drafts nonqualified deferred compensation arrangements, including supplemental executive retirement plans, and change in control agreements. Additionally, Gabe advises employers and executives on issues under Code Sections 409A, 457(f), 457A, 162(m), 280G and 83 regarding compensation arrangements for executives.

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