

# **PacificSource FAQ:**

## **Oregon Senate Bill 89:**

### **Changes to State Continuation of Coverage Laws**

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#### **Background**

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On June 23, 2011, the Oregon Legislature passed Senate Bill 89-B, which expands state continuation of health insurance to allow spouses\* and dependents of an affected employee to *independently* elect state continuation, even if the employee is ineligible. The new measure also clarifies Oregon law to ensure that Oregonians who lose group health coverage because of a reduction of hours are eligible for state continuation. It also requires the insurer to provide notification and certain documents to an employee and eligible dependents.

Oregon state continuation applies to groups that are not subject to the continuation of coverage provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), which generally means employers of 19 or fewer employees and churches. Stand alone dental, vision, or prescription drug coverage need not be offered under state continuation provisions.

\*the term "spouse" in this document includes registered domestic partners.

#### **General Information**

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##### **Q1: When is the law effective?**

A1: For new groups, the changes are effective as of June 23, 2011. For renewing groups, the effective date is their renewal date on or after June 23, 2011. For example, if a group's renewal date was May 1, 2011, the changes will not take place for them until May 1, 2012.

##### **Q2: Under this law, who is eligible to elect state continuation of coverage?**

A2: Under the new law, anyone covered under the plan prior to the qualifying event has their own rights as a qualified beneficiary. In other words, a spouse or dependent child of a covered person can elect state continuation independent of the employee. Thus, the following individuals qualify:

- A "covered person" (certificate holder/subscriber) who was:
  - covered under the group health plan the day before the qualifying event; and
  - was covered under the plan during the three-month period ending on the date of the qualifying event.
  
- A "qualified beneficiary" (spouse or dependent child of a covered person) who was:
  - covered under the group insurance policy on the day before a qualifying event; or
  - born or adopted by a covered person during the period of continuation of coverage and would have been eligible if the child had been born or adopted prior to the qualifying event.

##### **Q3: What is a qualifying event?**

A3: Previous to SB 89, a "qualifying event" meant the loss of coverage under a group health insurance policy caused by:

- Voluntary or involuntary termination of employment of a covered person;
- A reduction in hours worked by the covered person;
- Termination of membership in the group covered by the group health insurance policy (such as with termination of membership in an association);
- The death of a covered person; or
- Dissolution of marriage with the covered person.

**SB 89 adds two additional qualifying events:**

- A covered person becoming eligible for Medicare; or
- A qualified beneficiary losing dependent child status under the covered person's group health insurance policy.

**Q4: When are covered persons or qualified beneficiary *not* eligible for state continuation of coverage?**

A4:

- When the individual is eligible for Medicare; or
- When the covered person or qualified beneficiary becomes covered under any other program that did not cover them on the day before a qualifying event.

**Q5: What must an individual do to apply for continuation of coverage?**

A5: According to SB89, a covered person or qualified beneficiary who wishes to continue coverage must provide written notice to the insurer within 10 days\* after the date of a qualifying event **or** the date the insurer provides the notice of the individual's continuation rights—whichever is later (see Q7: "What are the notification requirements?" below).

\* PacificSource group contracts allow 31 days for providing this notification.

**Q6: When does state continuation of coverage end?**

A6: Coverage will end:

- Nine months after the date of the qualifying event;
- The end of the period for which the last timely premium payment was received;
- When the covered person or qualified beneficiary becomes eligible for Medicare or other coverage under any other program that was not covering the person or beneficiary before the qualifying event; or
- The date the policy is terminated unless replaced by similar coverage under another group policy. Coverage may be continued under the replacement policy until coverage would have otherwise terminated under the replaced policy.

**Q7: What are the notification requirements?**

A7: If coverage of a covered person or qualified beneficiary is terminated under the group health policy and the policy is not replaced by similar coverage under another group policy, the insurer must provide written notice to the covered person and any qualified beneficiary no later than 10 days after the insurer is notified of the qualifying event. The notice must include at least the following:

- Contact information for the insurer;
- Forms necessary to request continuation of coverage (including instruction for completing the forms);
- Information sufficient to determine premium rates for continuation of coverage and instructions for paying premium;
- A clear statement of who is eligible to continue coverage;
- Enrollment information for any other coverage provided by the employer for which the covered person or qualified beneficiary may be eligible;

- An explanation of the process to appeal a denial of a claim;
- Information about how to contact the consumer advocacy unit of the Oregon Insurance Division; and
- Other information as may be required by subsequent regulations.

**Q8: Is the notification responsibility moving off the employer?**

A8: No. The employer will still need to notify PacificSource of a qualifying event and subsequent loss of coverage in the same manner as they are now (by completing the form on the billing statement or simply written request). At that point we, as the insurer, are required to send notice to the covered person or qualified beneficiary as outlined in A7 above.

**Q9: Does the new law change the layoff/rehire provision of continuation coverage?**

A9: The layoff/rehire provision for small employer groups of fewer than 20 employees remains the same. If a terminated employee is rehired within nine months of layoff, regardless of whether they elected continuation coverage, coverage is reinstated the date the employee returns without the application of a probationary or waiting period.

**Q10: When will PacificSource begin notifying qualified beneficiaries of their new continuation rights?**

A10: Although regulations concerning the new state continuation of coverage law have not been finalized, PacificSource has implemented a system for notifying qualified beneficiaries of their new continuation rights in the absence of these regulations.

**Q11: What if I had termed employees between June 23 and October 1?**

A11: If your plan renewed with PacificSource between July 1 and October 1, 2011, please contact your PacificSource Membership Service Representative about providing notification to a terminated employee or qualified beneficiary. (Please see Q1: "When is the law effective?" above.)