

Sadly, many people over 65 are not being told that when they go onto COBRA they must enroll in Medicare in order to get their bills paid. They assume their health insurance will go on as before, the only difference being that the premiums are coming out of their own pocket now (or in some cases the former employer will subsidize). What they don't know is that COBRA, for a person over 65, is not complete insurance.

The Medicare Secondary Payer rules are vastly complex. Much of the bill-shuffling takes place behind the scenes. But what everyone needs to know about these rules is that COBRA pays secondary to Medicare, and in order for their bills to get paid they must be enrolled in Medicare Parts A and B.

UNDERSTANDING THE SPECIAL ENROLLMENT PERIOD

There are specific times a person can enroll in Medicare. The first is when they turn 65. The initial enrollment period runs from three months before to three months after the person turns 65, a total of seven months. If a person is still working at age 65, they can stay on the employer plan and enroll in Medicare later. As long as their health insurance coverage is based on active employment of self or spouse, the special enrollment period runs from age 65 until eight months after leaving employment. A person can enroll in Medicare anytime during this special enrollment period. (**Note:** we are not talking here about getting medical bills paid, just the ability to enroll in Medicare.)

If a person leaves employment and goes onto COBRA without signing up for Medicare, the special enrollment period will still end eight months after leaving employment. Since COBRA generally lasts 18 months, many people are misled into thinking they can go on COBRA for 18 months and then enroll in Medicare when the COBRA stops. But after 18 months they are outside their special enrollment period. They will not be able to enroll in Medicare until the next general enrollment period, January 1 to March 31, with coverage starting the following month.

To take advantage of their special enrollment period they would have had to enroll in Medicare before the

end of the eighth month after leaving employment, regardless of whether or not they had the COBRA. The 18-month COBRA period just confuses things, making people think they could easily transition to Medicare after the COBRA ends. Not true. Again, COBRA is great for people under 65. But for people over 65 it creates complications with Medicare enrollment and, as noted earlier, the very function of insurance which is getting the medical bills paid.

By the way, we had a case recently where a client had taken COBRA for a few months and then went to enroll in Medicare. The SSA agent told him that because he was on COBRA he would have to wait until January to enroll in Medicare. This was bad information. The client was still within his special enrollment period and should have been allowed to enroll in Medicare. Taking COBRA did not change the special enrollment period. Only if the client had gone more than eight months would he have had to wait until the next general enrollment period to enroll in Medicare.

WHAT ABOUT SUPPLEMENTAL INSURANCE?

The ability to get a Medigap policy without underwriting drives (or should drive) a lot of people's Medicare decisions. There are certain times when you can get a Medigap policy without underwriting. The first is during the Medigap open enrollment period, which is the six-month period following enrollment in Part B. Anyone who wants to buy a Medigap policy during this period will be able to get one regardless of health status. (**Note:** These are the national rules; in some states, notably New York, Connecticut, Massachusetts, and Maine, residents can get a Medigap policy anytime. Other states have variations on rules related to Medigap guaranteed issue—check with your state insurance department.)

Other than the Medigap open enrollment period there are several other times you may have guaranteed-issue rights (www.medicare.gov/health-drug-plans/medigap/ready-to-buy). One of these is when "you have Original Medicare and an employer group health plan (including retiree or COBRA coverage) or union

coverage that pays after Medicare pays and that plan is ending.”

According to Medicare, “if you have COBRA coverage you can either buy a Medigap policy right away or wait until the COBRA coverage ends. You can/must apply for a Medigap policy no later than 63 calendar days after the latest of these 3 dates: **1)** date the coverage ends; **2)** date on the notice you get telling you that coverage is ending; **3)** date on the claim denial, if this is the only way you know that your coverage ended.”

Some Medicare advisors are telling people that they have to get their Medigap policy within six months after enrolling in Part B, even if they have COBRA. But Medicare’s list of guaranteed-issue periods makes it clear that a person can get a Medigap policy after going off COBRA as long as they apply within 63 days.

THE BOTTOM LINE

If you are over 65, leaving employment, and offered COBRA, you must enroll in Medicare Parts A and B in order for the COBRA to work.

The COBRA can serve as supplemental insurance as long as it lasts. When it ends you should be able to get a Medigap policy with guaranteed-issue rights.

COBRA may not be the best option. It can be expensive compared to Medigap policies or Medicare Advantage plans available on the open market. Even if the COBRA offers benefits not available through Medicare, such as dental, it may not be worth it due to the high premiums.

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