



TOWN OF ERVING

12 Main Street
Erving, Massachusetts 01344
Telephone: (413) 422-2800
Facsimile: (413) 422-2808
Email: administrator@erving-ma.gov

ADM-201

Policy

Consolidated Omnibus Budget Reconciliation Act (COBRA) Policy

Approved: _____

Select Board Chair, Jacob A. Smith

Date: October 3, 2022

Table of Contents

.01	Issue Date / Effective Date.....	1
.02	Application.....	1
.03	Notice of Group Health Continuation Coverage Under COBRA	2
.04	Events Giving Rise to Continuation Coverage Option.....	2
.05	Period of Continuation Coverage.....	3
.06	Termination of Continuation of Coverage	4
.07	Notice Procedures	5
.08	Certification Procedures.....	6
.09	Plan Coordinator	7

.01 Issue Date / Effective Date

This policy is issued and effective on October 3, 2022.

This policy supersedes the COBRA Policy previously issued on November 23, 2015.

.02 Application

The Town will comply with the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986, as Amended (Public Law 99-272) Title X, Section 10002; 100 Stat 227; 29 U.S.C. 1161-1168, which requires employer-sponsored group medical plans to offer covered employees, their spouses, former spouses, and dependent children to elect to have their current medical coverage continued (continuation coverage) at the employee and dependents' expense, at group rates, following a qualifying loss of coverage. COBRA requires that continuation coverage extend from the date of the qualifying event for a limited period of 18 or 36 months. The length of time depends on the type of qualifying event that gives rise to the COBRA rights.

Employees should notify the Treasurer's Office as soon as possible of any qualifying event that would affect the employee's insurance coverage (i.e., divorce, dependent child reaching maximum age for coverage under the parent's plan, change in individual or family coverage, planned retirement, or termination).

.03 Notice of Group Health Continuation Coverage Under COBRA

In 1986, a Federal law was enacted (Public Law 99-272, Title X), known as COBRA, requiring that most employers sponsoring group health plans offer participating employees and their families the opportunity for a temporary extension of health coverage (called “Continuation Coverage”) at group rates in certain instances where coverage under the employer’s plan would otherwise end.

This notice is intended to inform covered employees, in summary fashion, of their rights and obligations under the Continuation Coverage provisions of COBRA, as amended. Both covered employees and their covered dependents should take the time to read this notice carefully.

.04 Events Giving Rise to Continuation Coverage Option

A. Covered Employees

Employees of the Town who are covered by the Town’s Employee Benefits Plan (“the Benefits Plan”) have the right to purchase this Continuation Coverage when they lose their group health coverage for either of the following Qualifying Events:

1. A reduction in work hours of employment below the Benefits Plan eligibility threshold: (20 hours per week or .5 FTE teacher); or
2. The termination of the employee’s employment, unless their employment is terminated because of gross misconduct¹ on the employee’s part.

B. Spouses of Covered Employees

If an individual is currently covered under the Benefits Plan as the spouse of an employee covered by the Benefits Plan, that individual shall have the right to purchase Continuation Coverage for himself/herself/themselves when he/she/they lose group health coverage under the Benefits Plan for any of the following Qualifying Events:

1. The death of their spouse;
2. A termination of their spouse’s employment unless termination is due to gross misconduct;
3. A reduction in their spouse’s hours of employment with the Town below the Benefits Plan eligibility threshold;
4. Divorce or legal separation from their spouse; or
5. Their spouse becomes entitled to Medicare.

C. Dependent Children of Covered Employees

If a covered employee has a dependent child who is currently covered by the Benefits Plan, they have the right to purchase Continuation Coverage if group health coverage is lost under the Benefits Plan for any of the following Qualifying Events:

1. The death of the employee;
2. A termination of the employee’s employment unless termination is due to gross misconduct;
3. A reduction in the employee’s hours of employment with the Town below the Benefits Plan eligibility threshold;
4. The employee’s divorce or legal separation;
5. The employee becomes entitled to Medicare; or
6. The dependent ceases to be a “dependent child” under the Benefits Plan. (Effective July 1, 2012, adult children up to age 26 are eligible for enrollment on their parent’s health

¹ For the purposes of this Policy, the term “gross misconduct” means outrageous, extreme, or unconscionable conduct that is intentional, wanton, willful, or deliberate; or that is performed with deliberate indifference to the Town’s interests and/or with conscious or reckless disregard of the consequences of the employee’s actions.

insurance through the Town, regardless of another offer of insurance. Children are covered through the end of the month in which they turn age 26.)

A child who is born to or placed for adoption with the covered employee during a period of COBRA coverage will be eligible to become a qualified beneficiary. In accordance with the terms of the Town's Employee Benefits Plan and the requirements of federal law, these qualified beneficiaries can be added to COBRA coverage upon proper notification to the Plan Coordinator of the birth or adoption.

.05 Period of Continuation Coverage

1. General Rules

COBRA requires that covered individuals be afforded the opportunity to purchase Continuation Coverage for up to 18 months if either of the following Qualifying Events occur;

1. Termination of the covered employee's employment, unless termination is due to gross misconduct; or
2. A reduction in the covered employee's hours of employment below the Benefits Plan eligibility threshold.

If an individual is eligible to purchase Continuation Coverage due to one of these qualifying events, the individual must do so at the time the event occurs.

COBRA requires that covered individuals be afforded the opportunity to purchase Continuation Coverage for up to 36 months if any of the following Qualifying Events occur;

1. The death of the covered employee;
2. Divorce or legal separation from the covered employee;
3. The covered employee becomes entitled to Medicare; and
4. A child ceases to be a dependent under the Benefits Plan.

If an individual is eligible to purchase Continuation Coverage due to one of these qualifying events, the individual must do so at the time the event occurs.

2. Special Rule for Multiple Qualifying Events other than Entitlement to Medicare

If, during an 18-month period of Continuation Coverage, a covered individual experiences an event giving rise to 36 months of Continuation Coverage, the individual may elect to extend their Continuation Coverage to 36 months beginning on the date the original 18-month period began. (Special rules involving entitlement to Medicare are discussed below.) By way of example, an employee quits his job (18-month coverage) and dies shortly thereafter (36-month coverage). The surviving spouse and dependents are eligible to receive coverage for a maximum of 36 months commencing on the date the employee quit his job provided they were eligible for Continuation Coverage at the time of the covered employee's death. In no event will Continuation Coverage last beyond 36 months from the date of the first Qualifying Event.

If a covered individual believes they are entitled to extended coverage under this rule, the individual should contact the Plan Coordinator at the address set forth at the end of this notice. Failure to contact the Plan Coordinator may lead to premature termination of Continuation Coverage.

3. Special Rule for Spouses and Dependent Children Upon Covered Employee's Entitlement to Medicare

COBRA requires that if a covered employee becomes entitled to Medicare (regardless of whether such Qualifying Event causes a loss of coverage under the Benefits Plan), the period of Coverage for the spouse of such covered employee or the dependent child of such covered employee shall not terminate before the end of the 36-month period following the earlier of the date of the first Qualifying Event or the

date the covered employee becomes entitled to Medicare. Entitled to Medicare means the covered employee is eligible to receive and signs up for Medicare insurance. The maximum aggregate period of Continuation Coverage for any or all Qualifying Events, including Medicare entitlement, is 36 months. For example, assume a covered employee becomes entitled to Medicare on January 1, 1999 (which event does not cause a loss of coverage), and subsequently loses coverage due to termination of employment on September 1, 1999. By applying the special Medicare rule, a “lookback” to the date of Medicare entitlement would entitle the employee’s covered dependents to 36 months of Continuation Coverage (i.e., from January 1, 1999 to December 31, 2002). Under these circumstances, an employee’s covered dependents are entitled to the longer period of Continuation Coverage (36 months) beginning on the date of Medicare entitlement, instead of only 18 months of coverage from the date of the employee’s termination (which coverage would have expired on February 29, 2001).

This coverage is available only to the spouse and dependent children of covered employees and only if such individuals themselves are covered under the Benefits Plan at the time the covered employee becomes entitled to Medicare.

To ensure that a covered individual received this coverage, the individual must notify the Plan Coordinator at the time the covered employee becomes entitled to Medicare. Failure to notify the Plan Coordinator of the covered employee’s entitlement may lead to premature termination of Continuation Coverage.

4. Special Rule for Disabled Qualified Beneficiaries

If the covered employee, the spouse of a covered employee, or the dependent child of a covered employee is determined by the Social Security Administration to be disabled (for Social Security disability purposes) at any time during the first 60 days of COBRA coverage, the disabled individual, if then covered under the Benefits Plan, is eligible for extended Continuation Coverage beyond the normal period of 18 months. Under this special rule, qualifying disabled individuals may extend Continuation Coverage for up to 29 months from the time they are first eligible to elect Continuation Coverage due to a termination or reduction in hours of employment.

In order to be entitled to this extended coverage, the disabled person (or any other qualified beneficiary) must provide the following notices to the Plan Coordinator:

1. A copy of the Social Security Administration determination of his or her disability within the earlier of 60 days after the Administration makes a disability determination, or the last day of the initial 18-month period of Continuation Coverage, and
2. Such individual must notify the Plan Coordinator within 30 days of the date the Social Security Administration makes a final determination that he or she is no longer disabled.

.06 Termination of Continuation of Coverage

- A. COBRA also provides that Continuation Coverage will end for any of the following reasons:
1. The Employer no longer provides group health coverage to any of its employees (special rules may apply if a health plan is terminated or coverage is reduced on account of bankruptcy proceedings);
 2. The covered individual fails to pay the premium for their Continuation Coverage on time;
 3. The covered individual becomes covered under another group health plan as an employee, spouse or dependent, after the date the individual elects COBRA coverage so long as the new group health plan does not exclude or limit coverage for a pre-existing condition for which the individual was covered under the Benefits Plan;

4. The covered individual becomes entitled to Medicare after the date the individual elects COBRA coverage; or
5. The covered individual ends their legal separation from a covered employee and once again becomes covered under the Benefits Plan as a spouse.

In addition, if an individual's Continuation Coverage was extended to 29 months due to their disability, their extended coverage will end with the month that begins more than 30 days after a final determination under the Social Security Administration that the individual is no longer disabled even if the total period of coverage is less than 29 months. In no event, however, will the period of coverage be less than 18 months unless one of the above events occurs.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) restricts the extent to which group health plans may impose pre-existing condition limitations. These rules are generally effective for plan years beginning after June 30, 1997. HIPAA coordinates COBRA's other coverage cut-off rule with these new limits as follows.

If an individual becomes covered by another group health plan and that plan contains a pre-existing condition limitation that affects the individual, their COBRA coverage cannot be terminated. However, if the other plan's pre-existing condition rules do not apply to the individual by reason of HIPAA's restrictions on preexisting condition clauses, the Benefits Plan may terminate the individual's COBRA coverage.

Under the law, individuals do not have to show that they are insurable to purchase Continuation Coverage. However, Continuation Coverage under COBRA is provided subject to their eligibility for coverage; the Employer reserves the right to terminate an individual's COBRA coverage retroactively if they are determined to be ineligible.

Covered individuals must pay the full premium for their Continuation Coverage, plus an additional 2% for an administrative fee.

COBRA also provides that, at the end of the Continuation Coverage period, individuals must be allowed to enroll in an individual conversion health plan, if any, provided under the Benefits Plan. If a covered individual elects to convert their coverage to an individual conversion plan, they must notify the Plan Coordinator within the 180-day period ending on the date their Continuation Coverage under the Benefits Plan will expire.

.07 Notice Procedures

1. Notice to be Provided by Employee or Family Member

Under COBRA, the employee or a family member has the responsibility to inform the Town's Employee Benefits Plan Coordinator of a divorce, legal separation, or a child losing covered dependent status under the Plan within 60 days of the event. The address for the Plan Coordinator is set forth below. You must inform the Plan Coordinator as soon as possible after one of these events has occurred. You must also notify the Plan Coordinator in accordance with the special rules regarding disability determination, if applicable. If you fail to inform the Plan Coordinator within 60 days after one of these events has occurred, you will lose your right to purchase Continuation Coverage under the Benefits Plan.

In addition, there are also special rules for Continuation Coverage which apply when the covered employee become entitled to Medicare as determined by the Social Security Administration. The Medicare rules are described in more detail above. To ensure that you receive the maximum amount of

coverage in the event the covered employee becomes entitled to Medicare, you should notify the Plan Coordinator as soon as possible after such Medicare entitlement occurs.

2. Notice to be Provided by Employer

The Town has the responsibility to notify the Plan Coordinator of an employee's death, termination of employment or reduction in hours worked below the Benefits Plan eligibility threshold, or Medicare entitlement. Please note that for purposes of this notice, the Town and the Plan Coordinator are the same.

3. Notice to be Provided by Plan Coordinator

When the Plan Coordinator is notified of a divorce, legal separation, child losing dependent status, employee's death, termination of employment, reduction in hours worked, or Medicare entitlement, the Plan Coordinator will in turn notify you that you have the right to purchase Continuation Coverage.

4. Election Period and Premium Payment

Under the law, covered individuals have 60 days from the date which is the later of (i) the date they have been provided with this Notice, or (ii) the date they would lose coverage because of one of the events described above, to inform the Plan Coordinator that they want Continuation Coverage. Covered individuals must inform the Plan Coordinator by completing the Election Form and sending it to the Plan Coordinator no later than the end of the 60-day period described in the previous sentence.

The Continuation Coverage is optional. However, if covered individuals do not elect Continuation Coverage, their group health coverage under the Benefits Plan will end.

If covered individuals elect Continuation Coverage, the Town is required to allow them to purchase coverage which, as of the time coverage is being provided, is identical to the coverage provided under the plan to similarly situated employees or family members.

Covered individuals must pay all premiums for coverage due retroactive to the day they lost coverage under the Benefits Plan no later than the forty-sixth (46th) day following their initial election to purchase Continuation Coverage. For each premium payment thereafter, payment is due on the first of the month for which the premium applies (for example, the premium for the month of June is due June 1). If a covered individual does not pay their premium on or before the first of each month, a grace period of 30 days will be allowed for payment of any delinquent premium. A failure to pay premiums before the expiration of the grace period will result in a loss of coverage.

.08 Certification Procedures

The Benefits Plan provides Creditable Coverage Certifications to Plan participants in accordance with the Health Insurance Portability and Accountability Act of 1996. The certification, provided at the beginning and end of an individual's COBRA coverage and again within 24 months if the covered individual requests it, will specify the period of time for which the individual was covered under the Town's group health plan and under COBRA. This certification may be used to reduce or eliminate a pre-existing condition waiting period if the covered individual becomes covered under a new group health plan within 63 days of the date your coverage ends under the Town's Employee Benefits Plan.

.09 Plan Coordinator

The requirements of COBRA are complicated. Any questions about the matters discussed in this Notice should be addressed to the Treasurer's Office, 12 East Main Street, Erving, MA 01344 or by email to treasurer@erving-ma.gov.

Finally, to ensure receipt of all of the important information concerning your Continuation Coverage, covered individuals should notify the Plan Coordinator in writing at the above address as soon as possible upon the occurrence of any of the following events:

1. The covered employee and their spouse legally separate or divorce.
2. The covered employee or their spouse change addresses.
3. The covered employee's child ceases to be an eligible dependent under the Benefits Plan.
4. The covered employee becomes entitled to Medicare.
5. The employee is covered by the Benefits Plan and the Social Security Administration determines that they are disabled, as well as a subsequent determination by the Social Security Administration that they are no longer disabled, if applicable.