



RE: NJ & NY State Continuation versus Federal COBRA of 1986

Dear Valued Client:

An employee and/or their covered dependents may be eligible to continue their group health coverage under your plan beyond the date it would normally terminate.

- For employer groups with **less than 20 employees**, continuation rights are regulated by New Jersey or New York State Continuation guidelines.
- For employer groups with **20 or more employees**, continuation rights are regulated by the Federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

Employer groups who had an equivalent of at least 20 employees on 50% of the business days in the previous calendar year are subject to COBRA. Following are the basic rules for calculating an accurate employee count:

- Each full-time employee is counted as one employee
- Part-time employees are counted as fractions of full-time employees based on the number of hours worked by full-time employees

An easy way to determine the full-time equivalent employee count is to sum the hours worked by your part-time and full-time employees, then divide that total by the number of hours required to be considered a full-time employee.

**Example #1 - Subject to State Continuation**

15 full-time employees work 40 hrs/wk	15 x 40 = 600
6 part-time employees work 20 hrs/wk	6 x 20 = 120

720 (total hours) ÷ 40 (hrs/wk to be considered full-time) = 18

**Example #2 - Subject to COBRA**

18 full-time employees work 30 hrs/wk	18 x 30 = 540
4 part-time employees work 20 hrs/wk	4 x 20 = 80
1 part-time employee works 15 hrs/wk	1 x 15 = 15

635 (total hours) ÷ 30 (hrs/wk to be considered full-time) = 21.167

Once a determination has been made, an employer group must comply with the regulations under the applicable program. Though there are many similarities between them, there are also many differences.

	<b>New Jersey State Continuation</b>	<b>New York State Continuation</b>	<b>COBRA</b>
<b>Applicable Plans</b>	Medical Only	Medical Only	- Medical - Dental - Vision - FSAs (2 Step Test) - HRAs
<b>Employee Qualifying Events</b> - Termination of Employment (except for gross misconduct) - Reduction of hours	<b>18</b> months <b>18</b> months	<b>18</b> months <b>18</b> months	<b>18</b> months <b>18</b> months
- Determined to be disabled under the Social Security Act	<b>29</b> months	<b>29</b> months	<b>29</b> months
<b>Dependent Qualifying Events</b> - Spouse and children of divorced employee - Spouse and children of deceased employee - Spouse and children of Medicare eligible employee - Children who no longer meet criteria	<b>36</b> months <b>36</b> months <b>None</b> <b>36</b> months	<b>36</b> months <b>36</b> months <b>36</b> months <b>36</b> months	<b>36</b> months <b>36</b> months <b>36</b> months <b>36</b> months
<b>Employer Notification</b>	Employee must contact employer within <b>30</b> days	must be sent within <b>15</b> days	must be sent within <b>14</b> days
<b>Employee Election Period</b>	<b>30</b> days	<b>60</b> days	<b>60</b> days
<b>Payment of initial premium</b>	within <b>30</b> days of written election	within <b>45</b> days of written election	within <b>45</b> days of written election
<b>Cost</b>	<b>100%</b> of retail premium + <b>2%</b> administrative fee (employer's option); or <b>150%</b> for an employee that has been determined to have been disabled under the Social Security Act	<b>100%</b> of retail premium + <b>2%</b> administrative fee (employer's option); or <b>150%</b> for an employee that has been determined to have been disabled under the Social Security Act	<b>100%</b> of retail premium + <b>2%</b> administrative fee (employer's option); or <b>150%</b> for an employee that has been determined to have been disabled under the Social Security Act

*This chart is for illustrative purposes only and is superseded by any state or federal publications*

Please note that we are here to provide guidance and assist you in anyway that we can, however State Continuation and COBRA are laws and we are not lawyers. This information is not to be taken as legal advice or counsel. If you anticipate facing a legal issue or have in-depth compliance questions, we recommend contacting an attorney to discuss the matter in full detail.

Sincerely,  
**PSI CONSULTANTS, LLC**