



REVISED COBRA MODEL NOTICES

The Department of Labor (DOL) has [published](#) revised [COBRA model notices](#) and new [employee FAQs](#) to clear up confusion on the interaction with Medicare. Both the model general notice and model election notice now include identical new paragraphs explaining:

- Medicare's 8-month special enrollment period when employment ends,
- How COBRA is not creditable toward Part B, so electing COBRA and delaying Medicare may result in late enrollment penalties,
- How COBRA may be terminated early if not enrolled in any Medicare before electing COBRA but the individual then enrolls in Medicare after electing COBRA, and
- How COBRA typically pays secondary to Medicare and might do so even if the individual is not enrolled in Medicare.

Using COBRA model notices is considered a safe harbor to demonstrate good faith compliance. However, you might have tailored your notices, such as to remove references to entitlement to Medicare or legal separation if those are not COBRA qualifying events for your plans. And we have seen a recent wave of class action [lawsuits](#) claiming deficiencies in COBRA notice content. So it will be best to carefully compare your existing notices to these revised model notices to ensure they accurately represent your policies and protect you in court.

Please note these new COBRA model notices do not explain the [new](#) Outbreak Period extended deadlines. The government expects many employers are closed and unable to provide notices right now, so the extensions didn't include a formal requirement to notify employees of the extended deadlines. Nevertheless, it does seem prudent to convey the extensions to employees and COBRA qualified beneficiaries if HR is staffed now. Since regulators might not provide a model notice to communicate the extensions, we have created a [sample notice](#) to help.

Please let your IMA Benefits team know if you have questions on any of these notices.

Please be advised that this whitepaper is an educational and informational resource only. The views and statements expressed herein are not to be construed as legal advice from the authors or IMA and such communication is not protected under the attorney client privilege. Recipients should seek specific legal advice from competent legal counsel of your choice.