

Disability Rights Legal Center

CLRC

Cancer Legal Resource Center

The CLRC is a joint program of the Disability Rights Legal Center & Loyola Law School Los Angeles

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COBRA, Cal-COBRA, HIPAA, MRMIP, & PCIP

Navigating through health insurance options can be a daunting task, especially when they sound like alphabet soup! This handout is intended to give you an overview of some of the health insurance options available to people with pre-existing medical conditions in California.

The most common way that people obtain health insurance coverage is through their own employment or a family member's employment. There are certain rights that are guaranteed to people who are insured through their own or a family member's employment. Some of these rights pertain to the continuation of coverage when someone loses their employment-based coverage (see COBRA, discussed below). Employees with employer-sponsored health insurance are also protected from health insurance discrimination based on their pre-existing conditions under the Health Insurance Portability & Accountability Act (see HIPAA, discussed below).

COBRA

COBRA is a federal law that allows you to continue the same health insurance coverage that you had through your or your family member's employer. It is the same health insurance policy you had when you were employed, so you don't have to worry about changing providers.

COBRA is available to an employee or family member after an employee has terminated their employment or has reduced their work hours to a point that they are no longer eligible to receive coverage from their employer. This termination or reduction in hours is referred to as a "qualifying event." Other qualifying events for COBRA are divorce or death of a spouse (when the person seeking COBRA coverage was insured by a plan provided through the spouse's employment), or a child aging out of a parent's health insurance policy.

Qualifying Event	Qualified Beneficiaries	Maximum Coverage
Termination of employment	Employee, Spouse, Dependant Child	18 months
Employee enrollment in Medicare	Spouse, Dependant Child	36 months
Divorce or legal separation	Spouse, Dependant Child	36 months
Death of employee	Spouse, Dependant Child	36 months
Loss of dependant child status	Dependant Child	36 months

Federal law defines the terms of COBRA coverage and its availability as follows:

- COBRA applies to employers with 20 or more employees.
- COBRA coverage generally lasts for 18 months.¹
- The person insured is responsible for the full premium for the coverage.

¹ COBRA coverage can last up to 29 months if the person insured has a qualifying disability, or up to 36 months if the person became eligible for COBRA coverage because of certain qualifying events or a combination of qualifying events.

- The cost of the monthly premium paid by the employee can be up to 102% of what the employer was paying for the same benefits.
- Who is responsible for notifying the health plan of the qualifying event depends on which qualifying event has occurred.
- A health plan has 14 days after the plan administrator is notified of the qualifying event to notify the employee of the right to elect COBRA.
- An employee must elect COBRA within 60 days after being notified of their COBRA rights. The employee then has 45 days after electing coverage to pay the initial premium.

If you elect COBRA coverage, you will have to pay the premiums for each month since you became eligible. So, even if you wait until the last day of your eligibility to elect COBRA coverage, you will still have to back-pay the premiums to the date your eligibility began.

Cal-COBRA

Cal-COBRA is California's state version of COBRA. Cal-COBRA does the same thing as COBRA. It lets you keep your health insurance when you experience a "qualifying event." California has a relatively new law that extends Cal-COBRA coverage up to 36 months, regardless of the qualifying event. Cal-COBRA also provides that if you have federal COBRA and you have exhausted your 18 months, you can extend it for an additional 18 months under Cal-COBRA.²

State law defines the terms of Cal-COBRA coverage and its availability as follows:

- Cal-COBRA applies to employers with 2-19 employees.
- Cal-COBRA coverage generally lasts for 18 months.
- Cal-COBRA extends both COBRA & Cal-COBRA to 36 months.
- The cost of the monthly premium paid by the employee can be up to 110% of what the employer was paying for the same benefits.

California also has a program called the Health Insurance Premium Payment Program. If you qualify for Medi-Cal and currently have COBRA coverage, you may be able to get your COBRA premiums paid for through the HIPP program rather than receive Medi-Cal insurance. Your monthly medical costs must be twice your monthly premium amount in order to participate in the HIPP program.

Health Insurance Portability & Accountability Act (HIPAA)

HIPAA prohibits health insurance discrimination against individuals based on their pre-existing conditions, when going from a group health insurance plan to another group health insurance plan or from a group plan to a HIPAA guarantee issue plan.

HIPAA also: 1) provides a federal right to an individual health insurance plan (called a guarantee issue plan); 2) reduces the maximum pre-existing condition exclusion period to 12 months; and 3) gives you credit for the time that you had health insurance coverage in the past to eliminate or reduce a pre-existing condition exclusion period.

Guarantee Issue Plan

Normally when you apply for an individual health insurance plan, you are required to go through a process called medical underwriting. During this process, the insurance company looks at your past and current medical condition in order to decide whether or not they want to issue you a health plan. If you currently have, or in the past have had, a serious medical condition, the insurance company will likely decide that it is not worth the risk to them to issue you a health plan, and they will deny you coverage.

² Some employers do not contract with an insurance company to insure their employees, but instead pay directly for the health care of their employees. These employers are "self insured." Cal-COBRA is not available to employees who are covered by an employer's self-insured plan. These employees are only eligible for 18 months under federal COBRA (and only if they meet the federal requirements).

A guarantee issue plan, also known as a “federally insured plan” or “HIPAA plan,” is an individual health insurance plan that you have a right to purchase under federal law. A HIPAA plan isn’t a specific plan – it’s just a right to purchase an individual plan. Every insurance company that writes policies in the individual insurance market in your state also has to offer a HIPAA plan.³ The insurance company cannot deny you a HIPAA plan, but you need to use the buzz words (guaranteed issue or HIPAA plan) when you apply for the plan. Otherwise the insurance company will assume you want a regular individual plan and may deny you coverage.

A HIPAA plan is different than COBRA coverage. Under COBRA, you keep the same health insurance you had through your employer. Under HIPAA you are buying new insurance, so you need to compare all of the available plans and pick the one that is right for you. Compare the premiums, deductibles, and co-payments. Check to make sure your healthcare providers accept any insurance plan you are considering, and check to make sure that your prescription drugs are on the formulary list of drugs covered by the plan.

You must meet the following requirements to be eligible for a HIPAA plan:

- You must exhaust your COBRA coverage, meaning that you use all 18 or 36 months of COBRA coverage, and any additional COBRA coverage available to you, including Cal-COBRA.
- You cannot have a break in coverage longer than 63 days.
- You must be ineligible for Medicare, Medi-Cal, or any other form of group coverage.

Other HIPAA Protections

When you are going from one employer’s group health plan to another employer’s plan, the new plan is required to insure you, but they can impose a pre-existing condition exclusion period (PECEP), which means that for a certain period of time, they will not cover any treatment or services related to a pre-existing medical condition. Before HIPAA, a two-year PECEP was the industry standard. HIPAA limited the maximum PECEP that may be imposed to one year, and in some states the maximum PECEP is shorter under state law. In California, a health benefit plan that covers three or more people cannot impose a PECEP longer than six months.

Creditable coverage is any previous period of health insurance coverage that was not interrupted by a break in coverage of more than 63 days. HIPAA reduces any PECEP by the length of time that you previously had creditable coverage. Example: If you previously had coverage for four months, have not had a break in coverage of more than 63 days, and your new insurance plan has a PECEP of 12 months, then you get a credit for your 4 previous months of coverage, leaving you with only 8 months left on your PECEP. So, if you have 12 months or more of previous health insurance coverage, and you never have a break in coverage of more than 63 days, you will never face a PECEP.

Major Risk Medical Insurance Plan (MRMIP)

If you are not able to get insurance through COBRA, and are not eligible for a HIPAA plan because you did not exhaust your available COBRA coverage or you had a break in coverage of more than 63 days, or did not have health insurance when you were diagnosed, then you may be eligible for MRMIP. MRMIP provides limited health insurance for Californians who are unable to obtain coverage in the individual health insurance market due to a pre-existing condition.

You must meet the following requirements to be eligible for MRMIP:

- You must be a resident of California.
- You must not be eligible for COBRA, Cal-COBRA, HIPAA, Medicare or Medi-Cal.
- You must be unable to secure adequate coverage.

Three plans are offered through MRMIP: a Blue Cross PPO, a Blue Shield HMO, and a Kaiser HMO. The premiums for the coverage depend on where you live, your age, and which plan you choose. If

³ To find out which providers offer HIPAA plans in California, contact the California Department of Managed Health Care, or check the DMHC website: http://www.dmhc.ca.gov/dmhc_consumer/hp/hp_hipaacp.asp.

you don't have creditable coverage, the PPO has a PECEP of three months, during which you must pay the premiums, but don't receive coverage for your pre-existing condition. The HMO has a three-month waiting period, during which you do not pay premiums, but you do not get access to MRMIP coverage until the waiting period is over.

MRMIP is limited to 36 months and then you can move to a HIPAA plan the same way you can after exhausting your COBRA options.

Federal Pre-Existing Condition Insurance Plan (PCIP)

In addition to the MRMIP option, the Patient Protection and Affordable Care Act (PPACA), otherwise known as healthcare reform, requires that states create high risk insurance plans with federal eligibility requirements, called Pre-Existing Condition Insurance Plans (PCIP). In order to be eligible for the federal program, an individual must: (1) be a U.S. citizen or in the US lawfully, (2) have a pre-existing illness or condition or have been denied coverage because of your health condition, and (3) have not had creditable health insurance coverage for six months. It is important to note that if you are currently enrolled in MRMIP, you are not eligible for the Federal Pre-Existing Condition Insurance Plan.

Resources

<p><i>For questions about COBRA:</i> U.S. Department of Labor Employee Benefits Security Administration 1055 E. Colorado Blvd., Suite 200 Pasadena, CA 91106 (626) 229-1000 or (866) 275-7922 www.dol.gov/ebsa (AZ, Southern CA, HI)</p>	<p>U.S. Department of Labor Employee Benefits Security Administration 71 Stevenson Street, Suite 915, P.O. Box 190250 San Francisco, CA 94119 (415) 625-2481 or (866) 275-7922 www.dol.gov/ebsa (Northern CA, NV, UT)</p>
<p><i>For questions about Cal-COBRA & HIPAA:</i> CA Dept. of Managed Health Care (DMHC) HMO Help Center 980 Ninth Street, Suite 500 Sacramento, CA 95814-2725 (888) 466-2219 www.dmhc.ca.gov (For HMOs or Blue Cross & Blue Shield Plans)</p>	<p>California Department of Insurance 300 South Spring Street Los Angeles, CA 90013 (213) 897-8921 or (800) 927-4357 Consumer Help Line (213) 346-6801 www.insurance.ca.gov (For all other health plans)</p>
<p><i>For questions about MRMIP:</i> Major Risk Medical Insurance Program (MRMIP) P.O. Box 2769 Sacramento, CA 95812 (916) 324-4695 or (800) 289-6574 www.mrmib.ca.gov</p>	<p><i>For questions about HIPP:</i> California Department of Health Services Health Insurance Premium Payment Program (HIPP) (866) 298-8443 www.dhcs.ca.gov/formsandpubs/forms/Documents/CobraEnglish.pdf</p>
<p><i>For questions about federal PCIP:</i> Federal Pre-Existing Condition Insurance Plan (PCIP) P.O. Box 537032 Sacramento, CA 95853-7032 (877) 428-5060 www.pcip.ca.gov</p>	<p><i>For information about all of your available health insurance options:</i> Department of Health & Human Services www.healthcare.gov</p>

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