

Initial COBRA Notification of Rights and Obligations

Federal law requires the City of San José to offer all covered active employees and their covered spouses/domestic partners and dependents (“Qualified Beneficiaries”) the opportunity to elect a temporary extension of their health and welfare plan coverage (called “Continuation Coverage,” “COBRA Continuation Coverage,” or “COBRA Coverage”) where coverage under a group health plan in certain instances would otherwise end. A group health plan (“Plan”) includes any major medical plan, dental plan, vision plan, health Flexible Spending Account (FSA) or other plan sponsored by the City that provides medical care. You will have to pay the entire premium (both City portion and employee portion) for your COBRA Coverage.

In addition, there may be other coverage options for you and your family through the Health Insurance Marketplace (Marketplace). You are able to buy coverage through the Marketplace. The Marketplace in California is known as “Covered California.” Through Covered California, you could be eligible for a new kind of tax credit that lowers your monthly premiums right away, and you can see what your premium, deductibles and out-of-pocket costs will be before you make a decision to enroll. Being eligible for COBRA does not limit your eligibility for coverage for a tax credit through Covered California. Additionally, you may qualify for a special enrollment opportunity for another group health plan for which you are eligible (such as a spouse’s plan), even if the plan generally does not accept late enrollees, if you request enrollment within 30 days.

Both you and your spouse/domestic partner should read this notice carefully and keep it with your records.

This notice is to provide you, your covered spouse/domestic partner and covered dependents (all of whom may be Qualified Beneficiaries if Plan coverage is lost) with a brief summary of your rights and obligations under current COBRA law.

Qualified Beneficiaries

“Qualified Beneficiaries” are generally the employee, the employee’s spouse/domestic partner or dependent children who are covered by the Plan on the day before a Qualifying Event.

Qualifying Events

“Qualifying Events” are defined as certain events that cause an individual to lose health coverage. The type of Qualifying Event will determine the amount of time a Plan must offer their health benefits to Qualified Beneficiaries under COBRA.

Qualifying Events for the Employee

If you are a covered employee, you have the right to elect COBRA Coverage for yourself and/or your dependents if you lose Plan coverage because of any of the following Qualifying Events:

- Voluntary or involuntary termination of your employment (for reasons other than your gross misconduct).
- Reduction in the hours of your employment.

Qualifying Events for Spouses/Domestic Partners

If you are the covered spouse or domestic partner of an employee, you have the right to elect COBRA Coverage if you lose Plan coverage because of any of the following Qualifying Events:

- The death of your spouse/domestic partner.
- Voluntary or involuntary termination of your spouse’s/domestic partner’s employment (for reasons other than gross misconduct).
- Reduction in your spouse’s/domestic partner’s hours of employment with the City of San José.
- Divorce or legal separation from your spouse or dissolution of domestic partnership.

Qualifying Events for Dependent Children

If you are the covered dependent child of an employee, you have the right to elect COBRA Coverage if Plan coverage is lost because of any of the following Qualifying Events:

- The death of your employee parent.
- Voluntary or involuntary termination of your employee parent’s employment (for reasons other than gross misconduct).
- Reduction in your employee parent’s hours of employment with the City of San José.
- Parent’s divorce, legal separation or dissolution of domestic partnership.
- You cease to be a “dependent child” under the terms of the Plan(s).

Required Notifications from the Employee, Spouse/Domestic Partner and Dependent(s)

If a spouse/domestic partner or dependent child loses coverage under the Plan(s) due to a divorce, legal separation, dissolution of domestic partnership, or the loss of a child's dependent status under the terms of the Plan(s), you (the employee) or your spouse/domestic partner or dependent child must provide written notice to the Plan Administrator of the divorce, legal separation, dissolution of domestic partnership, or loss of a child's dependent status. This written notice must be given within 60 days of the date of the event or the date coverage terminates under the terms of the Plan(s) because of the event, whichever is later.

If you or your family member fail to notify the Plan Administrator during the 60-day period, the individual losing coverage will NOT be offered the option to elect COBRA Continuation Coverage.

Required Notification from the Employer

Within 30 days of the date of the loss of coverage due to the employee's termination, reduction in hours, or death, the employer is required to notify the Plan Administrator of the loss of coverage.

Required Notification from the Plan Administrator

Upon receiving notice of a divorce, legal separation, dissolution of domestic partnership, a child losing dependent status, the covered employee's termination of employment, reduction in hours, or death of the employee, the Plan Administrator will notify the affected Qualified Beneficiary of the right to elect COBRA Continuation Coverage within 14 days.

Election of COBRA Continuation Coverage

The Qualified Beneficiary (the employee, spouse/domestic partner or dependent children) must elect COBRA Continuation Coverage within 60 days after the Plan coverage ends or within 60 days after the Plan Administrator provides you or your covered dependent(s) with notice of the right to elect COBRA Continuation Coverage, whichever is later. **If you or your spouse/domestic partner and dependent children do not elect COBRA Continuation Coverage within this 60-day election period, you will lose your right to elect COBRA Continuation Coverage.**

Each Qualified Beneficiary who was covered by the Plan on the day before the Qualifying Event has independent election rights to COBRA Continuation Coverage. You (the employee) and/or your spouse/domestic partner may elect COBRA Continuation Coverage for all qualifying family members. The covered employee, spouse/domestic partner and dependent child(ren) each have an independent right to elect COBRA Continuation Coverage. Thus, a spouse/domestic partner or dependent child may elect COBRA Continuation Coverage even if the covered employee does not elect it.

A Qualified Beneficiary does not have to show that he/she is insurable to choose Continuation Coverage. However, Continuation Coverage is available to Qualified Beneficiaries subject to their continued eligibility. The Plan Administrator reserves the right to verify eligibility status. If it is determined that an individual is not a Qualified Beneficiary, he/she is not entitled to COBRA Continuation Coverage.

Type of Coverage

COBRA Continuation Coverage will be identical to the coverage provided to similarly situated active employees or family members. If the coverage for similarly situated employees or family members is modified, then COBRA Coverage will be modified in the same way. When a Qualified Beneficiary is first eligible for COBRA Coverage, he/she only has the right to continue the Plan benefits (for example, hospital, medical, prescription drug, dental or vision benefits) he/she had on the day before the event causing the Qualified Beneficiary's loss of coverage. However, a Qualified Beneficiary does have the right to change Plan benefits during the employer's open enrollment period, assuming regular employees may change their Plan benefits during this time. At the same time, a Qualified Beneficiary may add any dependents he/she did not have enrolled at the time of the Qualifying Event (their coverage will depend upon the Qualified Beneficiary continuing coverage under COBRA; dependents added during open enrollment are not considered Qualified Beneficiaries).

Each Qualified Beneficiary has a separate right to elect to continue coverage for each of the employer's separate health and welfare plans. For instance, a Qualified Beneficiary could elect to continue his/her group medical coverage and waive the continuation of his/her group dental coverage. The applicable premiums will vary depending on the coverage elected. If a Qualified Beneficiary is covered by a region specific Health Maintenance Organization (HMO), and he/she is moving outside of the HMO service area, the Qualified Beneficiary may have the additional right to choose a different plan provided by the City of San José at the time of the event. Please call the Plan Administrator for additional information.

No Coverage During Election Period

A Qualified Beneficiary will not be covered under the Plan(s) during the 60-day election period and 45-day period allowed to pay for the initial premium payment for COBRA Coverage. However, if a COBRA Coverage election is made in accordance with the current COBRA laws and all applicable premiums are paid as detailed in a later section, then coverage under the selected Plan(s) will be retroactive to the original loss of coverage date in accordance with federal law. Upon timely receipt of a Qualified Beneficiary's properly completed and signed COBRA Election Form, coverage shall be in effect under the applicable Plan. If a medical provider calls for verification of eligibility or benefits during the election period and the Plan Administrator does not have a record of a timely and properly completed election form and payment of premium, the medical provider will be told that the Qualified Beneficiary does not have coverage but that he/she will be covered as of the COBRA effective date provided that a timely and properly completed election form and premium payment are received. Upon timely receipt of a properly completed election form and payment of all applicable premiums, COBRA Continuation Coverage shall be in effect.

Effective Date of Continuation (COBRA) Coverage

For all COBRA Qualifying Events, coverage is lost at the end of the month in which the event occurs. COBRA Continuation Coverage begins the first day of the month following the date of the Qualifying Event. Thereafter, COBRA coverage begins on the first day of each successive month. For example, if a COBRA Qualifying Event occurs on April 13, coverage is lost at the end of that same April; Continuation Coverage will begin on May 1 as breaks in coverage are not permitted.

Premium Payments

You (the employee) are responsible for all premium payments (both City portion and employee portion) for your Continuation Coverage. As allowed by federal law, your premium payment will be equal to the cost of the coverage you select plus 2% for administration. Exception: If coverage is being continued during a disability extension, then the premiums during that 11-month disability extension period will be equal to 150% of the group coverage premium rate. The cost may be 213% of the premiums if COBRA Coverage is further continued under California law when the employee was at least age 60 at the time of termination with a minimum of five (5) years of service with the City.

Premium payments for the "initial premium months" are due by the 45th day after electing Continuation Coverage. The initial premium payment must cover the period that elapsed from the date of the loss of coverage due to the Qualifying Event to the date paid. If you do not make that payment on time, there is no right to Continuation Coverage. All other premiums are due on the 1st day of the month for which coverage is desired subject to a 30-day grace period. If you do not make the payment within the grace period, COBRA Coverage will be canceled as of the first day of that month.

Your first **payment** and all periodic payments for continuation coverage should be sent to:

Payments multiple payment options*:

- Secure online payment – To make a one-time payment or set-up recurring monthly payments; create an account on the administrator's website at www.padmin.com.
- IVR (Integrated Voice Response) – To make a one-time payment or set-up recurring monthly payments; call P&A at (800) 688-2611 to make a payment over the phone.
- ACH Payment – To set up an automatic debit from your checking or savings account, please complete an ACH Authorization form and return to the P&A Group. With this option, you will need to make a payment by check for the first month while this process is set up. You can also authorize this process online by logging into your account at www.padmin.com.
- Check or Money Order – Pay by check or money order and mail your payments to: P&A Group, Department 652, PO Box 8000, Buffalo, NY 14267-8000.

**Credit card payments are not available at this time*

Maximum Coverage Periods

1. **36 Months.** If a spouse/domestic partner or dependent child(ren) Qualified Beneficiary loses group health coverage because of the employee's death, divorce, legal separation, dissolution of domestic partnership, the employee becoming entitled to Medicare after COBRA has been elected, or because a Qualified Beneficiary loses status as a dependent under the Plan, the maximum coverage period for the Qualified Beneficiary spouse/domestic partner or dependent child(ren) is three years (36 months) from the date of the initial Qualifying Event.
2. **18 Months.** If an employee, spouse/domestic partner or dependent child(ren) Qualified Beneficiary loses group health coverage because of the employee's termination of employment (other than for gross misconduct) or reduction in hours, the maximum Continuation Coverage period (for employee, spouse or dependent child(ren)) is 18 months from the date of termination or reduction in hours or date of loss of coverage if that is later.

3. **11 Month Disability Extension of 18-month period.** If an employee or qualified beneficiary is disabled at any time during the first 60 days of the 18-month COBRA Continuation Coverage period, then the qualified beneficiary who has elected continuation coverage will be entitled to the 11 month extension with a maximum period of 29 months provided total disability is determined under Title II (Old Age, Survivors, and Disability Insurance) or Title XVI (Supplemental Security Income) of the Social Security Act; the total disability award occurs within the first 18-months of coverage; and the Plan Administrator is notified within 60 days of the date the final determination of total disability is made by the Social Security Administration. If a determination is made that the individual is no longer disabled, the individual must provide notice of the determination to the Plan Administrator within 30 days of that finding.
4. **Second Qualifying Event Exception.** For a spouse or dependent Qualified Beneficiary who has the right to 18 months of COBRA Coverage due to an employee's termination of employment (other than for gross misconduct) or reduction of hours, there is a right to extend coverage an additional 18 months up to a maximum of 36 months in the event of a second Qualifying Event during the 18-month COBRA period, if notice of the second Qualifying Event is properly given to the Plan. For example, the employee and spouse have COBRA coverage for 6 months when they divorce; the divorce is a second Qualifying Event that allows the spouse to have continued coverage for an additional 30 months (36 months less the 6 months he/she had already used of COBRA Continuation Coverage).
5. **Special Rules Involving Employee's Entitlement to Medicare Benefits.** These rules apply to the duration of COBRA Continuation Coverage for spouses and dependents of employees who become eligible for Medicare prior to the Qualifying Event (whether or not coverage is lost at that time): If a Qualified Beneficiary employee first becomes entitled to Medicare benefits under Title XVIII of the Social Security Act (42 U.S.C. §§1395-1395ggg) before experiencing a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period for Qualified Beneficiaries other than the covered employee ends on the later of:
 - a. 36 months after the date the covered employee became entitled to Medicare benefits; or
 - b. 18 months (or 29 months if there is a disability extension) after the date of the covered employee's termination of employment or reduction of hours of employment.
6. **Shorter Maximum for FSAs.** The right to COBRA Continuation Coverage for a health care Flexible Spending Account (FSA) is limited. An employee may continue coverage if he/she has a balance on account in the health care FSA. The Plan Administrator shall determine if the employee qualifies for COBRA Continuation Coverage. If so, the maximum COBRA period for a health care FSA maintained by the employer ends on the last day of the Plan Year in which the Qualifying Event occurred.

Termination before the End of Maximum Coverage Period

Continuation Coverage of the employee, spouse/domestic partner, or dependent child(ren) will automatically terminate (even before the end of the maximum coverage period) when any one of the following seven events occurs:

1. The employer no longer provides group health coverage to any of its employees.
2. The premium for the Continuation Coverage is not paid in full on time.
3. You (the employee), your spouse/domestic partner, or your dependent child(ren) become covered under another group health plan (as an employee or otherwise) which does not impose any pre-existing condition exclusion for a pre-existing condition of the Qualified Beneficiary (note: there are limitations on plans' imposing a preexisting condition exclusion and such exclusions will become prohibited beginning in 2014 under the Affordable Care Act). If the other plan has exclusions or limitations, your COBRA Coverage will terminate after the exclusion or limitation no longer applies (e.g., after a 6 - month preexisting condition waiting period expires).
4. You (the employee), your spouse/domestic partner, or your dependent child(ren) become entitled to a 29-month maximum coverage period, but then a final determination is made under the Social Security Act that you are no longer disabled. However, COBRA Continuation Coverage will not end until the month that begins more than 30 days after the determination.
5. A qualified beneficiary becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing COBRA Continuation Coverage.
6. The employer ceases to provide any group health plan for its employees.
7. For any reason the Plan would terminate coverage of a participant or beneficiary not receiving continuation coverage (such as fraud).

COBRA Extension under California Law

Effective September 1, 2003, terminated employees or employees who have lost medical plan* coverage due to a reduction in hours on or after January 1, 2003, may extend their coverage for up to an additional 18 months (not to exceed a total of 36 months of continuation coverage from the Qualifying Event). The total cost for this coverage will be 102% of the total premium. This extension is not available for the Health Care Flexible Spending Account, Dental, or Vision Plans.

**Except for Blue Shield PPO participants, for which the coverage is limited to Federal COBRA/18 months.*

Open Enrollment Rights and HIPAA Special Enrollment Rights

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) restricts the extent to which group health plans may impose preexisting condition limitations. If you become covered by another group health plan and that plan contains a preexisting condition limitation that affects you, your COBRA Coverage cannot be canceled. However, if the other plan's preexisting condition rules do not apply to you due to HIPAA's restriction on preexisting condition clauses, then COBRA Coverage can be canceled. You and your covered dependents will receive a Certificate of Creditable Coverage when your coverage under the City of San José Plan ends. You will receive another Certificate of Creditable Coverage when your COBRA Coverage ends.

To waive the preexisting condition clause, you must have prior Creditable Coverage under another group health plan within the 62 days immediately before the date you enrolled in the Plan. You must receive a Certificate of Creditable Coverage from your Plan Administrator or directly from your past medical plan(s) as proof of prior coverage.

If your dependents were eligible for coverage, but did not enroll in the City-sponsored medical plan because they had other medical coverage, and they lose that other medical coverage, they will be allowed to enroll in the current medical plan during special enrollment periods after their initial eligibility period if certain conditions are met. These special enrollment rules apply to eligible dependents that are not enrolled for coverage under the terms of the Plan. You may also enroll newly acquired dependents under the special enrollment rules.

A dependent is eligible to enroll during special mid-year enrollment periods if the following conditions are met:

- When you (the employee) declined enrollment for your dependent(s), your dependent(s) had COBRA Continuation Coverage under another plan and that COBRA Continuation Coverage has since been exhausted (i.e., ceased for any reason); or
- If the other coverage that applied to your dependent(s) when enrollment was declined was not under a COBRA Continuation provision, either the other coverage has terminated as the result of the loss of eligibility or employer contributions toward that coverage have been terminated. Loss of eligibility includes a loss of coverage as a result of legal separation, divorce, dissolution of domestic partnership, death, termination of employment, or reduction in hours of employment.

Children Born to or Placed for Adoption with the Covered Employee during a COBRA Period

A child born to, adopted by, or placed for adoption with a Qualified Beneficiary during a period of Continuation Coverage is considered a Qualified Beneficiary unless the employee was a Qualified Beneficiary who elected not to continue coverage for himself/herself. The covered employee or other guardian has the right to elect Continuation Coverage for the child if the child satisfies the other applicable Plan eligibility requirements. The covered employee or a family member must notify the Plan Administrator within 30 days of the date of birth, adoption or placement for adoption in order to enroll the child on COBRA, and COBRA Coverage will last as long as it lasts for the other family members of the employee. **If the covered employee or family member fails to notify the Plan Administrator timely, then the covered employee will NOT be offered the option to elect COBRA Coverage for the child.**

Note: the newborn or adoptee may be eligible for coverage under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) even if he or she is not a Qualified Beneficiary for purposes of COBRA.

Conversion to an Individual Policy

Upon termination of the maximum COBRA Continuation Coverage period, you and any covered dependents will have the right to convert your coverage to an individual policy if one is available through your Plan. You will be notified of this right within 180 days prior to the end of your COBRA Coverage maximum period.

Notice of Address or Status Changes to Plan Administrator

You must notify the Plan Administrator about address changes, any new marital/domestic partnership status and changes in the status of your dependents. The Plan Administrator sends COBRA notices to your last known address of record with the employer. The address for a covered employee's spouse/domestic partner or child(ren) shall be the employee's address unless you (employee, spouse/domestic partner or dependent[s]) notify the Plan Administrator in writing of a different address for the spouse/domestic partner or dependent(s). If you or your spouse's/domestic partner's or dependent's address changes, you must promptly notify the Plan Administrator in writing (the Plan Administrator needs up-to-date addresses in order to mail important COBRA and other information). Also, if your marital/domestic partnership status changes or if a dependent ceases to be a dependent eligible for coverage under the Plan(s)'s terms, you or your spouse/domestic partner or dependent must promptly notify the Plan Administrator in writing (such notification is necessary to protect COBRA rights for your spouse and dependent child(ren)).

Plan Administrator

P and A Group is the Plan Administrator for all group health care plans. All notices and other communication regarding the Plans, and/or regarding COBRA and HIPAA must be directed to:

P&A Group
Department 652
PO Box 8000
Buffalo, NY 14267-8000

Website: www.padmin.com
Telephone Number: (800) 688-2611

For More Information

If you (the employee), your spouse/domestic partner or dependent child(ren) have any questions about the notice of COBRA rights, or if you wish to receive the most recent copy of the Plan's Summary Plan Description, which contains important information about Plan benefits, eligibility, exclusions and limitations, please contact City of San Jose Human Resources at (408) 535-1285 or HRBenefits@sanjoseca.gov.

This Initial Notice is not intended to give greater rights than allowed under COBRA. If there is a conflict or ambiguity between the information in this notice and any other COBRA notice you receive from an insurance carrier, this notice shall prevail.