Q&A HR Legal Compliance

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Q **How much should I be charging qualified beneficiaries for COBRA coverage?**

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Under the Cosolidated Omnibus Budget Reconcililation Act (COBRA), an employer may charge qualified beneficiaries for coverage continuation.

The amount charged cannot exceed 102 percent of the cost of the plan for similarly situated individuals covered under the plan, who have not incurred a qualifying event. In the case of a disability extension, the amount charged may be increased up to 150 percent of the plan's total cost of coverage for similarly situated individuals.

For insured plans, the applicable premium is usually equal to the insurance premium paid to the insurance carrier. However, the calculation can be more difficult for self-funded plans, and it can be determined by using past costs or an actuarial estimate of future costs. The applicable premium is the total cost to the plan for providing coverage, so it includes both employer- and employee-paid portions and can also include the administrative cost of providing COBRA coverage.

The plan must calculate the COBRA applicable premium in advance for a 12-month "determination period." The plan can choose any 12-month period to be the determination period, but it must remain consistent every year. The COBRA premium may be changed for a new determination period if the applicable premium changes, but there are certain limited situations where the COBRA premium may be changed **during** the determination period (for example, if the qualified beneficiary changes coverage to another benefit package with a higher applicable premium).

The plan administrator should use caution when calculating the COBRA premium, as well as when communicating that premium to qualified beneficiaries. Fixing the mistake of overcharging or undercharging qualified beneficiaries for COBRA premiums can be administratively burdensome and raise COBRA compliance issues.

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