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IS COBRA THE CORRECT COVERAGE FOR YOUR DIVORCING CLIENT?

A growing area of concern among divorcing couples is proper planning for Healthcare coverage, after a divorce. Medical costs are some of the main contributors for personal bankruptcy and can place an individual in serious financial distress. This type of life transition tends to negatively affect one spouses healthcare coverage.

OVERVIEW

The Consolidated Omnibus Budget Reconciliation Act (COBRA) passed in 1986, requires group health plans to provide continuing coverage on an individual basis to qualified beneficiaries, for *limited periods* of time (generally 36 months) under triggering events such as divorce. COBRA was initially enacted in response to reports of the growing number of Americans without health insurance coverage, and hospitals lack of willingness to provide care to those who couldn't afford to pay.

COBRA applies only to group health plans that are maintained by employers that employed 20 or more employees on a normal business day, in the preceding year. If an employer had 20 or more employees during the Christmas season, but not during the rest of the year, they would be exempt from COBRA coverage. The Christmas season would not qualify as a typical or normal business day. An employer could also be exempt from COBRA if it had fewer than 20 employees for at least fifty percent (50%) of the working days during the year. When health care planning for your divorcing client, research the plan to be sure that it's not exempt from COBRA guidelines.

In the event of a divorce or legal separation the ***employee*** must notify the plan administrator within 60 days of the date of divorce on behalf of their former spouse to provide eligibility for COBRA coverage. If you believe that your former (employee) spouse will not make this notification on your behalf, than you can inform the plan in writing. The plan administrator must then notify the qualified employee of this triggering event within 14 days of receiving notification. My recommendation is that the non-employee former spouse request to be copied on any correspondence from the plan administrator to the employee spouse. If notification is not sent to the plan administrator within 60 days of the date of divorce, the former spouse will not be entitled to COBRA coverage.

COSTS

Assuming the plan is not exempt from COBRA, as a divorced spouse you qualify for coverage but may be required to pay the entire premium, up to 102% of the cost to the plan. The additional 2% is added for the plans administrative expenses. This coverage is expensive because many employers pay all or a portion of the plans premiums on behalf of their employees, where a divorced spouse cannot reap these benefits. Many divorcing people are unaware of these expenses and the financial position they've just put themselves in; they also tend to think COBRA is their only option for healthcare coverage.

COBRA continuation coverage seems to be the recommended solution for a divorcing client with health insurance concerns, which can or can't be the right advice. While COBRA provides for a *temporary* extension of group healthcare coverage, it should be compared to all available options prior to making any decisions. Given every case is different, the advantages and disadvantages of COBRA can potentially make or break your clients cash flow.

ADVANTAGES, DISADVANTAGES & SOLUTIONS

The advantages of COBRA tend to attract a former spouse because the election provides immediate resolution, adequate coverage, bridges a gap with other coverage's and you are able to continue coverage without re-visiting pre-existing conditions. With COBRA there is not additional underwriting to determine insurability, but what if you don't have any health issues? Some of the disadvantages of COBRA can be the expense, the health plan may not cover the former spouse's new geographic location, you may develop conditions during your temporary coverage that make you uninsurable, coverage disappears if the business insuring you fails, and the insured tends to postpone future healthcare planning.

As mentioned, there are other options a former spouse has as a replacement to COBRA. A former spouse could find a job that offers good coverage, obtain individual coverage or coverage through a state high risk pool, request COBRA coverage to buy time until alternative coverage is obtained, or start a business and deduct your premiums on your personal tax return or through the entity.

Wisconsin residents should review the Health Insurance Risk Sharing Plan (HIRSP), which offers coverage to residents who are uninsurable, have lost their employer-sponsored group health insurance or unable to find adequate coverage due to medical conditions. If you are over age 65, you can look for healthcare assistance with Medicare, Medicaid, and for discounted prescriptions Wisconsin's Senior Care program. Senior Care is a Prescription Drug Assistance Program for Wisconsin residents who meet certain eligibility requirements. In addition to being 65 and a Wisconsin resident you must pay a $30 annual enrollment fee and complete an application which measures your income. Assets, such as bank accounts, insurance policies, home property, etc., are not counted.

Another resource for families with Health Insurance difficulties and low-income is Wisconsin's Badger Care. Badger Care is a Wisconsin program that provides health care coverage for uninsured families. To be eligible you must have children under age 19 living with you, your income must be within the guideline limitations, and you must not be covered by any other health insurance. There is no limit on assets with this plan.

There are numerous remedies to obtain health care coverage and provide yourself security after your divorce. Limiting your scope to COBRA may not be the best option for your individual case. Through my practice we generally look to COBRA to provide a short-term remedy while reviewing other alternatives. To consult with a divorce financial analyst please contact us at the number below.

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