

- [Termination of Coverage](#)
- [Update PHI Access Form](#)

Termination of Coverage

Periodically, it comes to our attention that an Employer may have formal, or informal, personnel policies relating to continuation of coverage under the Group Health Plan for Employees absent from work due to disability (illness or injury) or approved leave of absence which differ from the provisions that are contained in their Plan Document/Summary Plan Description.

We strongly encourage all clients to review the "Termination of Coverage" provisions of their Plan Document/Summary Plan Description to determine if those provisions are consistent with other personnel policies which may be in effect. Should such personnel policies differ from those in your Plan Document/Summary Plan Description; please contact your designated Account Executive-Client Services so appropriate action can be taken.

To avoid extending coverage beyond that allowed by the Plan Document, it is important that termination of medical coverage information for Employees absent from work due to disability (illness or injury) or leave of absence be submitted to BAS once the absence has reached the maximum continuation of coverage period allowed by the Plan. The Employee may still be considered an Employee for employment purposes, but the coverage under the Group Health Plan must be terminated in accordance with the provisions of the

Plan Document.

Employees losing coverage for this reason must be offered COBRA Continuation Coverage.

The following excerpt from Employee Benefits Institute of America (EBIA) illustrates the importance of adherence to the provisions of the Plan Document.

EMPLOYER THAT FAILED TO NOTIFY PLAN OF QUALIFYING EVENT MUST PAY MEDICAL BILLS

A terminally ill employee began a medical leave, and his employer did what employers often do in these situations--nothing. The employer continued the employee's health insurance coverage as if he were still an active employee, and mentioned nothing about COBRA. Two months later, however, after the employer signed a collective bargaining agreement, its employees began participating in a collectively bargained health and welfare fund, providing significantly different coverage. After several months of reporting that the employee was a full-time active employee, the employer advised the fund that the employee had, in fact, been on leave since before his coverage through the fund began. Apparently, the fund then stopped paying the employee's claims--this case began with the employee's widow suing the fund and the employer to recover unpaid claims. The fund then sought to recover from the widow the benefits it had paid previously.

The court began with the premise that the employee would not have been eligible for coverage under the fund unless he had made a timely COBRA election. The court then concluded that the employee

did not elect COBRA because he was never given a COBRA notice in connection with the reduction in hours qualifying event that occurred when his leave began.

Moreover, the court found that the employer should have given notice to the fund of the employee's qualifying event within 30 days after the leave began. Because the employer did not give notice, the fund never had any obligation to provide coverage to the employee and was entitled to recover the benefits it had paid previously. According to the court, it was the employer's actions that caused the employee's lack of coverage, so the employer was liable to the widow for the benefits that the employee would have received if he had continued coverage.

EBIA Comment: Under most plans, the employer is the plan administrator so that the issue of whether the employer notified the plan of a qualifying event never arises. But for any plan, leaves of absence can raise many difficult COBRA issues. To reduce the risk of potential COBRA liability, employers are well-advised to adopt and consistently administer policies for leaves of absence (e.g., how long employment continues, when benefits terminate, when COBRA will be offered, whether the employer will pay for a period of COBRA coverage).

Please submit the requested forms to the

Update PHI Access Form

In the December, 2006 Newsletter we requested that all clients provide us with an updated PHI Access Form and a copy of the Business Associate Agreement you have with your broker and/or consultant. If you haven't had an opportunity to send the requested forms, please do so within the next two (2) weeks. If these forms have already been sent, thank you and please disregard this item.

Our PHI Access Form was developed for your use in documenting those employees or classes of employees who will be given access to Protected Health Information (PHI).

Attached is a PHI Access Form for your use in providing us with the current names or classes of employees that are allowed to receive PHI from BAS. As changes occur in your staffing, we request that you submit a revised PHI Access Form.

Compliance Manager at BAS' Homewood office at 17475 Jovanna Drive Suite 1B, Homewood, IL 60430 or email it to privacyassistance@benadmsys.com or fax it to 708-799-3256.