COBRA and Medicare: What You Need to Know Before You Accept It

If you are 65 or older and leaving a job, you will probably be offered COBRA. Sometimes the employer offers to pay for it as part of a severance package. It looks like a good deal, and in some ways it is.

It is not a substitute for Medicare, and treating it as one is the most expensive mistake I see. This page explains why.

The Short Version

If you are 65 or older and eligible for Medicare, COBRA does not protect you. Your Medicare enrollment clock starts when your active employment coverage ends, not when your COBRA ends. Riding COBRA to the end and then signing up for Medicare creates three separate problems at once: unpaid medical claims while you are on COBRA, permanent penalties, and a gap with no coverage at all.

If you are leaving a job at 65 or older, call me before you accept COBRA. Not after. There is almost always a better arrangement, and it is far easier to set up in advance than to repair afterward.

Q: My employer is paying for my COBRA. Can I just stay on that until it runs out and then sign up for Medicare?

No. This is the single most common and most costly misunderstanding in this area.

COBRA is continuation of a group health plan after your employment ends. The protections that let you safely delay Medicare come from coverage based on current employment. Once the job ends, that protection ends with it, whether or not you keep the plan and whether or not somebody else is paying for it.

Who pays the premium makes no difference. An employer paying your COBRA out of a severance agreement does not convert it back into active employment coverage. Medicare treats it the same either way.

Q: What actually goes wrong if I do that?

Three things, and they stack.

1. Your claims may not get paid the way you expect. CMS states that for an individual age 65 or older covered by Medicare and COBRA, Medicare pays primary and COBRA pays secondary (CMS, Medicare Secondary Payer). If you have not enrolled in Part B, there is no primary payer. Your COBRA plan can process claims as though Medicare had already paid

its share, leaving you owing that share. People discover this in the middle of a hospital stay, which is the worst possible time.

2. You accrue permanent penalties. The Part B late enrollment penalty is 10% of the premium for each full 12-month period you could have had Part B and did not. The Part D penalty accrues for each month without creditable drug coverage. Both are added to your premium and both last for life.

3. You may have no coverage at all for a stretch. If your enrollment window has closed by the time COBRA ends, you wait for the General Enrollment Period, January through March, with coverage starting the month after you enroll. Someone whose COBRA ends in April could be without coverage until the following February.

Q: How long do I actually have to enroll?

Use two months as your deadline. Two months from the end of the month your active employer coverage ends. Act inside that window and you are covered on every front.

The underlying rules are not identical for the different parts of Medicare, which is exactly why I give clients one number instead of three:

- **Part B:** eight months from when your employment ends or your group coverage ends, whichever comes first (42 CFR 406.24(b)(2), applied to Part B under 42 CFR 407.20). COBRA does not extend this. The clock runs during your COBRA period.
- **Part D:** two months after the month the employer or union coverage of any type ends (42 CFR 423.38(c)(11)(i)). This one does count COBRA, so it can run later than the Part B clock.

That split is a trap, not a benefit. Someone who leans on the Part D rule while the Part B clock quietly expires ends up with drug coverage and no medical coverage. Two months from the end of active employment keeps you clear of both.

Q: Is there ever a reason to take COBRA at 65 or older?

Sometimes, yes. A few situations where it makes sense:

- You are enrolling in Medicare on time and want COBRA only for a short bridge on dental, vision, or a specific ongoing treatment.
- Your spouse or dependents are under 65 and need to stay on the plan. COBRA can cover them while you move to Medicare separately.
- You are in the middle of a course of treatment with a provider who is not in the Medicare networks you are considering, and you need a short overlap.

In every one of those cases, you enroll in Medicare on schedule and use COBRA alongside it. The mistake is using COBRA instead of Medicare, not in addition to it.

Q: What about retiree health coverage? Same answer?

Same answer. CMS states that for an individual age 65 or older with an employer retirement plan, Medicare pays primary and the retiree coverage pays secondary. Retiree coverage is not based on current employment, so it does not hold your enrollment window open and it expects Medicare to pay first.

Most retiree plans are designed to sit alongside Medicare rather than replace it. Many require you to enroll in Part A and Part B to stay eligible. Read the plan documents or send them to me and I will read them.

Q: I already did this. I have been on COBRA for a year and I am not enrolled in Medicare. What now?

Call me today, and call Social Security. Do not wait for the COBRA to run out.

Depending on when your active coverage ended, you may still be inside the eight-month Part B window even if the two-month Part D window has closed. Those are different clocks, and missing one does not mean you have missed both. There are also limited circumstances where Social Security can grant relief if you were given incorrect information by an employer or plan, though that is a determination only SSA can make.

The sooner you start, the more options remain. This gets worse every month it is left alone.

In Plain Terms

COBRA is real coverage and it has real uses. What it cannot do is stand in for Medicare once you are 65 and eligible. The day you learn your job is ending, that is the day your Medicare clock starts, no matter what happens to your health plan afterward and no matter who is paying for it.

Call me before you sign the severance paperwork, not after. This is a short conversation that prevents a permanent problem.

Sources

- CMS, Medicare Secondary Payer, Common Situations of Primary vs. Secondary Payer Responsibility: https://www.cms.gov/medicare/coordination-benefits-recovery/overview/secondary-payer
- 42 CFR 406.24, Special enrollment period related to coverage under group health plans: https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-406/subpart-C/section-406.24
- 42 CFR 407.20, Special enrollment period related to coverage under group health plans (Part B): https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-407/subpart-B/section-407.20
- 42 CFR 423.38(c)(11), Part D enrollment periods, employer coverage special enrollment period: https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-423/subpart-B/section-423.38