

117TH CONGRESS
2D SESSION

H. R. 6384

To amend the Employee Retirement Income Security Act of 1974, title XXII of the Public Health Service Act, and the Internal Revenue Code of 1986 to improve certain notifications provided to qualified beneficiaries by group health plans in the case of COBRA qualifying events.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2022

Mr. HARDER of California (for himself and Mr. COURTNEY) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Employee Retirement Income Security Act of 1974, title XXII of the Public Health Service Act, and the Internal Revenue Code of 1986 to improve certain notifications provided to qualified beneficiaries by group health plans in the case of COBRA qualifying events.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Awareness
3 of Health Coverage Options Act of 2022”.

4 **SEC. 2. IMPROVEMENT OF CERTAIN NOTIFICATIONS PRO-**
5 **VIDED TO QUALIFIED BENEFICIARIES BY**
6 **GROUP HEALTH PLANS IN THE CASE OF**
7 **COBRA QUALIFYING EVENTS.**

8 (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT
9 OF 1974.—

10 (1) IN GENERAL.—Section 606 of the Employee
11 Retirement Income Security Act of 1974 (29 U.S.C.
12 1166) is amended—

13 (A) in subsection (a)(4), in the matter fol-
14 lowing subparagraph (B), by striking “under
15 this subsection” and inserting “under this part
16 in accordance with the notification requirements
17 under subsection (c)”; and

18 (B) in subsection (c)—

19 (i) by striking “For purposes of sub-
20 section (a)(4), any notification” and insert-
21 ing “For purposes of subsection (a)(4)—
22 “(1) any notification”;

23 (ii) by striking “, whichever is applica-
24 ble, and any such notification” and insert-
25 ing “of subsection (a), whichever is appli-
26 cable;

1 “(2) any such notification”; and

2 (iii) by striking “such notification is
3 made” and inserting “such notification is
4 made; and

5 “(3) any such notification shall, with respect to
6 each qualified beneficiary with respect to whom such
7 notification is made, include information regarding
8 any Exchange established under title I of the Pa-
9 tient Protection and Affordable Care Act through
10 which such a qualified beneficiary may be eligible to
11 enroll in a qualified health plan (as defined in sec-
12 tion 1301 of the Patient Protection and Affordable
13 Care Act), including—

14 “(A) the publicly accessible Internet
15 website address for such Exchange;

16 “(B) the publicly accessible Internet
17 website address for the Find Local Help direc-
18 tory maintained by the Department of Health
19 and Human Services on the healthcare.gov
20 Internet website (or a successor website);

21 “(C) a clear explanation that—

22 “(i) an individual who is eligible for
23 continuation coverage may be eligible to
24 enroll instead, with financial assistance, in
25 a qualified health plan offered through

1 such Exchange, but, in the case that such
2 individual elects to enroll in such continu-
3 ation coverage and subsequently elects to
4 terminate such continuation coverage be-
5 fore the period of such continuation cov-
6 erage expires, such individual may not be
7 eligible to enroll in a qualified health plan
8 offered through such Exchange during a
9 special enrollment period if more than 60
10 days have elapsed since the individual's
11 loss of coverage as an employee;

12 “(ii) an individual who elects to enroll
13 in continuation coverage will remain eligi-
14 ble to enroll in a qualified health plan of-
15 fered through such Exchange during an
16 open enrollment period or another special
17 enrollment period for which the individual
18 is eligible and may be eligible for financial
19 assistance with respect to enrolling in such
20 a qualified health plan; and

21 “(iii) an individual may apply for, and
22 if eligible, enroll in Medicaid or the Chil-
23 dren's Health Insurance Program (CHIP),
24 at any time, with no special enrollment pe-
25 riod required;

1 “(D) information on consumer protections
2 with respect to enrolling in a qualified health
3 plan offered through such Exchange, including
4 the requirement for such a qualified health plan
5 to provide coverage for essential health benefits
6 (as defined in section 1302(b) of the Patient
7 Protection and Affordable Care Act) and the re-
8 quirements applicable to such a qualified health
9 plan under part A of title XXVII of the Public
10 Health Service Act; and

11 “(E) information on the availability of fi-
12 nancial assistance with respect to enrolling in a
13 qualified health plan.”.

14 (2) EFFECTIVE DATE.—The amendments made
15 by paragraph (1) shall apply with respect to quali-
16 fying events occurring on or after the date that is
17 90 days after the date of the enactment of this Act.

18 (b) PUBLIC HEALTH SERVICE ACT.—

19 (1) IN GENERAL.—Section 2206 of the Public
20 Health Service Act (42 U.S.C. 300bb–6) is amend-
21 ed—

22 (A) by striking “In accordance” and in-
23 serting the following:

24 “(a) IN GENERAL.—In accordance”;

1 (B) by striking “of such beneficiary’s
2 rights under this subsection” and inserting “of
3 such beneficiary’s rights under this title in ac-
4 cordance with the notification requirements
5 under subsection (b)”;

6 (C) by striking “For purposes of para-
7 graph (4),” and all that follows through “such
8 notification is made.” and inserting the fol-
9 lowing:

10 “(b) RULES RELATING TO NOTIFICATION OF QUALI-
11 FIED BENEFICIARIES BY PLAN ADMINISTRATOR.—For
12 purposes of subsection (a)(4)—

13 “(1) any notification shall be made within 14
14 days of the date on which the plan administrator is
15 notified under paragraph (2) or (3) of subsection
16 (a), whichever is applicable;

17 “(2) any such notification to an individual who
18 is a qualified beneficiary as the spouse of the cov-
19 ered employee shall be treated as notification to all
20 other qualified beneficiaries residing with such
21 spouse at the time such notification is made; and

22 “(3) any such notification shall, with respect to
23 each qualified beneficiary with respect to whom such
24 notification is made, include information regarding
25 any Exchange established under title I of the Pa-

1 tient Protection and Affordable Care Act through
2 which such a qualified beneficiary may be eligible to
3 enroll in a qualified health plan (as defined in sec-
4 tion 1301 of the Patient Protection and Affordable
5 Care Act), including—

6 “(A) the publicly accessible Internet
7 website address for such Exchange;

8 “(B) the publicly accessible Internet
9 website address for the Find Local Help direc-
10 tory maintained by the Department of Health
11 and Human Services on the healthcare.gov
12 Internet website (or a successor website);

13 “(C) a clear explanation that—

14 “(i) an individual who is eligible for
15 continuation coverage may be eligible to
16 enroll instead, with financial assistance, in
17 a qualified health plan offered through
18 such Exchange, but, in the case that such
19 individual elects to enroll in such continu-
20 ation coverage and subsequently elects to
21 terminate such continuation coverage be-
22 fore the period of such continuation cov-
23 erage expires, such individual may not be
24 eligible to enroll in a qualified health plan
25 offered through such Exchange during a

1 special enrollment period if more than 60
2 days have elapsed since the individual's
3 loss of coverage as an employee;

4 “(ii) an individual who elects to enroll
5 in continuation coverage will remain eligi-
6 ble to enroll in a qualified health plan of-
7 fered through such Exchange during an
8 open enrollment period or another special
9 enrollment period for which the individual
10 is eligible and may be eligible for financial
11 assistance with respect to enrolling in such
12 a qualified health plan; and

13 “(iii) an individual may apply for, and
14 if eligible, enroll in Medicaid or the Chil-
15 dren's Health Insurance Program (CHIP),
16 at any time, with no special enrollment pe-
17 riod required;

18 “(D) information on consumer protections
19 with respect to enrolling in a qualified health
20 plan offered through such Exchange, including
21 the requirement for such a qualified health plan
22 to provide coverage for essential health benefits
23 (as defined in section 1302(b) of the Patient
24 Protection and Affordable Care Act) and the re-

1 requirements applicable to such a qualified health
2 plan under part A of title XXVII; and

3 “(E) information on the availability of fi-
4 nancial assistance with respect to enrolling in a
5 qualified health plan.”.

6 (2) EFFECTIVE DATE.—The amendments made
7 by paragraph (1) shall apply with respect to quali-
8 fying events occurring on or after the date that is
9 90 days after the date of the enactment of this Act.

10 (c) INTERNAL REVENUE CODE OF 1986.—

11 (1) IN GENERAL.—Section 4980B(f)(6) of the
12 Internal Revenue Code of 1986 is amended—

13 (A) in subparagraph (D)—

14 (i) in clause (ii), by striking “under
15 subparagraph (C)” and inserting “under
16 clause (iii)”; and

17 (ii) by redesignating clauses (i) and
18 (ii) as subclauses (I) and (II), respectively,
19 and moving the margin of each such sub-
20 clause, as so redesignated, 2 ems to the
21 right;

22 (B) by redesignating subparagraphs (A)
23 through (D) as clauses (i) through (iv), respec-
24 tively, and moving the margin of each such
25 clause, as so redesignated, 2 ems to the right;

1 (C) by striking “In accordance” and in-
2 serting the following:

3 “(A) IN GENERAL.—In accordance”;

4 (D) by inserting after “of such bene-
5 ficiary’s rights under this subsection” the fol-
6 lowing: “in accordance with the notification re-
7 quirements under subparagraph (C)”;

8 (E) by striking “The requirements of sub-
9 paragraph (B)” and all that follows through
10 “such notification is made.” and inserting the
11 following:

12 “(B) ALTERNATIVE MEANS OF COMPLI-
13 ANCE WITH REQUIREMENT FOR NOTIFICATION
14 OF MULTIEMPLOYER PLANS BY EMPLOYERS.—
15 The requirements of subparagraph (A)(ii) shall
16 be considered satisfied in the case of a multiem-
17 ployer plan in connection with a qualifying
18 event described in paragraph (3)(B) if the plan
19 provides that the determination of the occur-
20 rence of such qualifying event will be made by
21 the plan administrator.

22 “(C) RULES RELATING TO NOTIFICATION
23 OF QUALIFIED BENEFICIARIES BY PLAN ADMIN-
24 ISTRATOR.—For purposes of subparagraph
25 (A)(iv)—

1 “(i) any notification shall be made
2 within 14 days (or, in the case of a group
3 health plan which is a multiemployer plan,
4 such longer period of time as may be pro-
5 vided in the terms of the plan) of the date
6 on which the plan administrator is notified
7 under clause (ii) or (iii) of subparagraph
8 (A), whichever is applicable;

9 “(ii) any such notification to an indi-
10 vidual who is a qualified beneficiary as the
11 spouse of the covered employee shall be
12 treated as notification to all other qualified
13 beneficiaries residing with such spouse at
14 the time such notification is made; and

15 “(iii) any such notification shall, with
16 respect to each qualified beneficiary with
17 respect to whom such notification is made,
18 include information regarding any Ex-
19 change established under title I of the Pa-
20 tient Protection and Affordable Care Act
21 through which such a qualified beneficiary
22 may be eligible to enroll in a qualified
23 health plan (as defined in section 1301 of
24 the Patient Protection and Affordable Care
25 Act), including—

1 “(I) the publicly accessible Inter-
2 net website address for such Ex-
3 change;

4 “(II) the publicly accessible
5 Internet website address for the Find
6 Local Help directory maintained by
7 the Department of Health and
8 Human Services on the healthcare.gov
9 Internet website (or a successor
10 website);

11 “(III) a clear explanation that—

12 “(aa) an individual who is
13 eligible for continuation coverage
14 may be eligible to enroll instead,
15 with financial assistance, in a
16 qualified health plan offered
17 through such Exchange, but, in
18 the case that such individual
19 elects to enroll in such continu-
20 ation coverage and subsequently
21 elects to terminate such continu-
22 ation coverage before the period
23 of such continuation coverage ex-
24 pires, such individual may not be
25 eligible to enroll in a qualified

1 health plan offered through such
2 Exchange during a special enroll-
3 ment period if more than 60 days
4 have elapsed since the individ-
5 ual’s loss of coverage as an em-
6 ployee;

7 “(bb) an individual who
8 elects to enroll in continuation
9 coverage will remain eligible to
10 enroll in a qualified health plan
11 offered through such Exchange
12 during an open enrollment period
13 or another special enrollment pe-
14 riod for which the individual is
15 eligible and may be eligible for fi-
16 nancial assistance with respect to
17 enrolling in such a qualified
18 health plan; and

19 “(cc) an individual may
20 apply for, and if eligible, enroll in
21 Medicaid or the Children’s
22 Health Insurance Program
23 (CHIP), at any time, with no
24 special enrollment period re-
25 quired;

1 “(IV) information on consumer
2 protections with respect to enrolling in
3 a qualified health plan offered
4 through such Exchange, including the
5 requirement for such a qualified
6 health plan to provide coverage for es-
7 sential health benefits (as defined in
8 section 1302(b) of the Patient Protec-
9 tion and Affordable Care Act) and the
10 requirements applicable to such a
11 qualified health plan under part A of
12 title XXVII of the Public Health
13 Service Act; and

14 “(V) information on the avail-
15 ability of financial assistance with re-
16 spect to enrolling in a qualified health
17 plan.”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall apply with respect to quali-
20 fying events occurring on or after the date that is
21 90 days after the date of the enactment of this Act.

22 (d) MODEL NOTICES.—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary of
24 the Labor, in consultation with the Secretary of the Treas-

1 ury and the Secretary of Health and Human Services,
2 shall—

3 (1) update the model Consolidated Omnibus
4 Budget Reconciliation Act of 1985 (referred to in
5 this subsection as “COBRA”) continuation coverage
6 general notice and the model COBRA continuation
7 coverage election notice developed by the Secretary
8 of Labor for purposes of facilitating compliance of
9 group health plans with the notification require-
10 ments under section 606 of the Employee Retirement
11 Income Security Act of 1974 (29 U.S.C. 1166)
12 to include the information described in paragraph
13 (3) of subsection (c) of such section 606, as added
14 by subsection (a)(1);

15 (2) provide an opportunity for consumer testing
16 of each such notice, as so updated, to ensure that
17 each such notice is clear and understandable to the
18 average participant or beneficiary of a group health
19 plan; and

20 (3) rename the model COBRA continuation
21 coverage general notice and the model COBRA con-
22 tinuation coverage election notice as the “model
23 COBRA continuation coverage and Affordable Care
24 Act coverage general notice” and the “model

- 1 COBRA continuation coverage and Affordable Care
- 2 Act coverage election notice”, respectively.

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