

# The IRS estimates that 90 percent of employers are non compliant.

## How do you measure up?



1. Are you in compliance with TAMRA?

2. Can you say with 100% certainty that you sent written Initial Notices of COBRA rights to all eligible employees within the first 90 days after they became enrolled in group benefits?

3. Do you know if a person can be on Medicare and COBRA at the same time?

4. If you refused a late payment, could you prove it was late?

5. Does your *Election Notice* provide for Flex Spending Account participants to continue on FSA through the end of the plan year?

6. Do you know how long you must track divorces and ineligible dependents?

7. Do you know what the penalties are for incorrectly administering COBRA?

1. TAMRA (Technical and Miscellaneous Revenue ACT of 1988) requires a company to have: 1) individuals who have received COBRA training, 2) a written COBRA instruction manual, 3) a program designed and updated based on professional advice, and 4) a program monitored by independent auditors.

2. Initial Notices are required to be sent to employees and all qualified beneficiaries within the first 90 days after they are enrolled in a group benefits plan. Proof may be required.

3. If an employee elects Medicare and then becomes entitled to COBRA, they can be on both at the same time.

4. If you have dropped a participant from a COBRA plan for late payment, you need to have proof that the payment was delinquent.

5. With a FSA plan, when an employee has paid in more that they have received, they are entitled to elect COBRA, and continue to make payments (after tax) to remain current and utilize all of the money available in the plan until the end of the plan year.

6. Divorced spouses and ineligible dependents (those that are out of high school or college) are eligible to elect COBRA for up to 36 months.

7. Fines of up to \$100 per day per participant are possible. Additionally, an employer may be responsible for self-insuring a qualified beneficiary up to the entire cost of care.

8. Do you allow COBRA participants to go through Open Enrollment at the same time as other employees?

9. Do you know if you should send out letters if an employee takes time off under FMLA?

10. Do you track secondary events after termination?

11. Do you know if the election period begins based on: the event date, the date the letter was sent, or the last day of coverage?

12. Do you know if the COBRA duration (18 or 36 months) begins based on: the event date, the date the letter was sent, or the last day of coverage?

13. Do you know how long you have to get out the *Election Notice*?

14. Do you have proof (which includes copies) that the *Initial Notices* and the *Election Notices* were mailed?

15. If your records were destroyed, could you prove that these notices were sent out?

8. COBRA participants must be allowed to go through Open Enrollment along with other employees. At that time they can change coverages (i.e. add dental) and/or change participation levels (i.e. bring on a spouse and family).

9. FMLA itself is not a COBRA eligible event; however, if an employee does not return from FMLA, then a COBRA eligible event has occurred.

10. Secondary events can extend coverage for up to 36 months. Examples include the death of the ex-employee while on COBRA, in which case the family could extend coverage up to 36 months from the original termination date.

11. The election period begins on the latter of: the date the letter was sent or the last day of coverage.

12. The COBRA eligibility period starts on the date of the COBRA event.

13. The employer has 30 days after notice to notify a third party administrator (TPA), and the TPA has 14 days after notification to send out the Election Notice.

14. The IRS will want proof that Initial Notices and Election Notices were sent if they conduct an investigation. A Certificate of Mailing is the best way to prove a letter was sent.

15. Proof is required for all of the above events. It is the employer's responsibility to ensure that the records are kept safe at all times.



800.580.4505 • [www.paycomonline.com](http://www.paycomonline.com)

***If you could not answer yes to all 15 questions, your company could be at risk! Give us a call today to see how we can help get you in compliance.***