

OC REGISTER Q&A

BENEFIT COVERAGE WHILE ON WORKER'S COMPENSATION

Q. I have been on workers' compensation since April 2004 due to an injury from an accident on the job. I received a COBRA notice for major medical insurance plan from my employer informing me if I want to continue coverage at my own expense. Doesn't my employer have to continue providing me this benefit at their expense since I am on workers' compensation? Do I have the right to request this benefit at my employer's expense?

A. Employees on workers' compensation leave are entitled only to the same continuation of benefits as employees on other types of disability leaves. If your employer is covered by the Family Medical Leave Act (50 or more employees), they are required to continue the same level of benefits you were receiving prior to your leave, for a minimum of 12 weeks. This includes health insurance plans, employee benefit plans, including life, short-term and long-term disability or accident insurance, pension and retirement plans, and supplemental unemployment benefit plans. Beyond the 12 weeks, the employer has the choice of how benefits will be handled, including requiring the employee to go on COBRA coverage.

If your employer has less than 50 employees, they are not obligated to continue benefits while the employee is on a leave and can require the employee to go on COBRA any time during the leave. Again though, the employer must treat benefit coverage to the same extent and under the same conditions as would apply to all other leaves.

Benefits must be resumed upon the employee's reinstatement in the same manner and at the same levels that were provided when the leave began, and without any new qualification period. The policy of how benefits are affected while on a leave-of-absence, for all types of leaves, should be stated in your employee handbook.