



FAQ: If an employee enrolls in Medicare midyear and voluntarily drops group health coverage, are any covered dependents (spouse or children) offered COBRA?

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The short answer is no. An offer of COBRA is required if both of the following are true: one of the seven allowable COBRA triggering events occurs **and** a loss of coverage results. Sometimes an individual will experience a triggering event, but if it does not result in a loss of coverage, it is not considered a COBRA-qualifying event. Entitlement to Medicare (i.e., enrollment) is listed as a triggering event. However, it rarely leads to a loss of coverage due to the reasons discussed below.

For employers with 20 or more employees, the Medicare Secondary Payer (MSP) rules prohibit an employer from “taking into account” eligibility for or enrollment in Medicare when it comes to eligibility for the group health plan. Enrolling in Medicare does not automatically terminate group health coverage, and thus employers must allow individuals to remain on the group health plan if desired. Even for those employers with fewer than 20 employees who are not subject to MSP rules, group health plan eligibility rules typically do not prohibit an individual from having dual coverage in both Medicare and the group health plan. Because an individual can have dual coverage, if the employee chooses to drop the group health plan coverage, it is seen as a voluntary drop and thus does not create a COBRA-qualifying event for the employee or a spouse or dependent child(ren) who were also covered under the plan. Employers with fewer than 20 employees should review their plan documents to determine how eligibility works for someone who is Medicare eligible.

Sometimes employers assume that the spouse or dependent child(ren) would receive COBRA offers because they did not drop their own coverage; only the employee dropped coverage. Since dependents typically cannot stay enrolled in the group health plan without an employee and the employee could have remained enrolled in the group health plan to continue covering the spouse or dependent child(ren), it is still considered a voluntary drop. It is also important to note that even if the spouse or dependent child(ren) have access to other coverage, because this is a voluntary drop, the other group health plan may not consider this a midyear election change event to allow them to enroll midyear. Employees who cover a spouse or dependent child(ren) may want to remain enrolled in the group health plan even while enrolled in Medicare to ensure family members have access to coverage or time their Medicare enrollment to coincide with the annual open enrollment period of the spouse's own employer or the federal or state marketplace.

Employers can request a copy of NFP's *COBRA: A Guide for Employers* publication which includes a discussion on allowable triggering events and how Medicare enrollment (also known as entitlement) rarely creates a COBRA-qualifying event.

<https://www.nfp.com/insights/do-dependents-get-cobra-if-employee-drops-coverage-midyear/>

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