

# GI Joe Vs. COBRA

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When I was a kid, watching GI Joe cartoons and playing with the action figures was probably the highlight of my afternoons. The Joe team always seemed to save the day against the evil forces of Cobra. It would be interesting to see how GI Joe would have attempted to tackle the current financial crisis, particularly the unemployment environment as many Americans currently find themselves out of work. Let's assume that GI Joe (the real American Hero) fell on hard times similar to many Americans and actually had to rely on COBRA (not "Cobra") to maintain his health insurance. What would be the information that he would need to know before an economic recovery had him once again fully employed and fighting evil throughout the world?

The Consolidated Omnibus Budget Reconciliation Act of 1986, commonly referred to as COBRA, was passed as a means to allow displaced employees to maintain health insurance benefits for themselves and their qualified dependents at a reasonable rate for a temporary period of time. For instance, if Joe wanted to settle down as a mall cop in suburbia, but the job did not provide health insurance, he could elect COBRA benefits, and continue to pay his old employer the group premiums for a period up to 18 months. While the premium Joe will pay could be up to 102% of the employee rate, it'll most likely be cheaper than purchasing private health insurance. And even though his employment termination was voluntary, he would still be considered a qualified beneficiary as per COBRA.

Now let's take it a step further and say Joe had a fateful accident with a hand grenade at work and was "terminated" in a more permanent sense of the word. Joe's death would be considered a

"qualifying event" and his dependents would be eligible to maintain health insurance through COBRA for up to 36 months before needing to find other coverage.

The COBRA legislation affects individuals working for companies of 20 or more employees (we can assume GI Joe falls into this group since the headcount in the armed forces is fairly large). These companies must also have an employer-sponsored health plan. To be a qualifying beneficiary, you would need to be a covered individual under the group health plan as of the day before a qualifying event (notice that you do not have to be an employee to be a qualified beneficiary – you could be a spouse, ex-spouse or dependent child.) A qualifying event could be any of the following:

- Voluntary or involuntary termination of employment (Joe becomes a mall cop)
  - Involuntary termination due to gross misconduct would make Joe ineligible
- A reduction in hours (Joe decides to cut back his hours to spend more time with his family)
- Divorce or legal separation (Mrs. Joe decides to leave her hero for another cartoon)
- Employee Eligibility for Medicare benefits (GI Joe turns 65, which incidentally will happen in 2029)
- Loss of Dependent Child Status (Joe Jr. finishes military school and is no longer an eligible dependent)

- Death

In the event that Joe's old employer terminates the group health plan, his COBRA continuation coverage will terminate as well. Joe's coverage would also terminate if he became eligible for group coverage under another plan, which could happen if his new employer offered a group plan or if his spouse's employer offered a group plan under which Joe was eligible for coverage. Naturally, if he decided to skip premium payments, like any insurance, his coverage would lapse.

Let's take our story a little further... Let's say Joe's modern day mission was to hunt down Cobra (not COBRA) and he just can't shoot a gun quite as well as he used to back in 1983. With the armed forces needing to make some cuts, Joe gets involuntarily terminated (fired) back in October 2008. He's filed for unemployment benefits but unfortunately, he can't afford his COBRA premium payments. Lucky for Joe, on February 17, 2009 the President signed into law the American Recovery and Reinvestment Act of 2009 (ARRA). This act brings a number of changes to the way COBRA benefits are paid.

Under this act, COBRA individuals who are involuntarily terminated after September 1, 2008 could have 65% of their premiums subsidized by their prior employer (again, assuming that their employer had 20 or more employees and has an employer-sponsored health plan.) But this premium subsidy does not apply to every COBRA qualified beneficiary. It only applies to "Assistance Eligible Individuals" or AEI's. In order for Joe to be considered an AEI and receive the premium subsidy income tax free for up to 9 months, he must be involuntarily terminated (fired), he must not have access to another employer-sponsored plan through a new job or his spouse, and he must fall below certain income phase-out limits. If GI Joe and Mrs. Joe, for instance, file their taxes jointly, the premium subsidy and other ARRA benefits begin to phase out at \$250,000 of income and are completely

phased out at \$290,000 of income. So if Mrs. Joe has a very successful consulting business on the side, but counts on Joe's group health insurance benefits, they may not qualify for the subsidy because of their income level.

In addition to the potential premium subsidy, Joe also has the opportunity to make a special election to reinstate his COBRA benefits, which presumably lapsed due to his inability to pay his premiums. This special election period only applies to individuals who were terminated between September 1, 2008 and February 17, 2009 and as of February 17, did not have COBRA coverage because it was never elected or the coverage lapsed. For individuals terminated on or after February 17, the standard election period applies. The other benefit of ARRA is the "optional downgrade" in coverage. This means that if Joe's family enjoyed a rich point-of-service plan with all the bells and whistles while he was employed, and his former employer offers a lesser, more affordable HMO option, he could decide to switch plans to save further dollars on his premiums while he looks for work.

While COBRA benefits would typically last between 18 and 36 months (depending on the qualifying event), the premium subsidy through ARRA lasts only 9 months if Joe qualified as an AEI. This is also important for the business owner who will be potentially subsidizing 65% of Joe's premiums. While the employer is required to pay 65% of the premium on behalf of the former employee, the employer will receive a tax credit reimbursement to quarterly payroll taxes when form 941 is filed. In the event the premium subsidies paid exceed payroll taxes, the company will get a check from the government for the difference in cost.

Health insurance benefits and COBRA are just a few of the things that need to be considered when termination rears its ugly head. In Joe's case, it would be important to talk to his financial advisor, insurance professional and perhaps even an employment attorney. Consideration should be

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given to severance packages, employer-sponsored retirement plans and the portability of other benefits. The more you know before receiving a pink slip or a knock on the office door, the better off you'll be. As they say.... "Knowing is half the battle!"

For more information on COBRA and ARRA, check out [www.dol.gov/cobra](http://www.dol.gov/cobra).

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