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COBRA: AM I DOING IT WRONG?

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As brokers and consultants, if you approach employer laws that touch the benefits plans of your clients/prospects as opportunities rather than problems, you can gain new business and keep existing business. Let's look at COBRA, for example.

The Consolidated Omnibus Reconciliation Act of 1985 is an employer law enforced at the federal level by the Department of Labor. Failure to comply has resulted in employers incurring excise penalties, lawsuits and claims paid out of pocket.

Usually, consultants fall into one of two camps: "I won't touch it with a 10-foot pole" or "I will send out notices and packets for my clients." Both lead brokers into a false sense of security. The former is a way to avoid misinforming clients and E&O issues. The latter creates an environment of needy, uneducated employers, potentially creates E&O violations, and hinders your clients/prospects from seeing your value as an expert.

Create value by meeting off-cycle from the next renewal to inquire about what is and is not working. Use any meeting

as an opportunity to educate them about something meaningful to them, in this case COBRA, even if they think they already know what they need to know.

The take-away for clients/prospects should be that you are making them aware of facets to this law they may not know. Offer a third party to administer the service for them to ensure compliance, education and, ultimately, another way of demonstrating *your* credibility, value and ability to see past the core benefits in a way that protects them and looks at their benefits through a more comprehensive scope.

Here is a 10-question quiz you can bring to the attention of your clients and prospects. If they don't know the answers (also shown below), they need to consider outsourcing this component of maintaining compliance:

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COBRA QUIZ

1. COBRA is a _____ law.
2. There are as many as _____ types of notices a qualified beneficiary could receive.
3. _____ can pay anyone's COBRA premium.
4. The 10 potentially qualified beneficiaries are: _____, _____, _____, _____, _____, _____, _____, _____ and _____.
5. _____ is required at the tail end of COBRA.
6. _____ states have state continuation requirements.
7. Employers are subject to COBRA if they have _____ employees on _____ days of the preceding calendar _____. Both full- and part-time (counted as a fraction of an employee, with the fraction equal to the number of hours that the part-time employee worked divided by the hours an employee must work to be considered full-time) employees are counted to determine whether a plan is subject to COBRA.
8. _____ are required to maintain written processes and procedures related to how and when they notify participants of their initial COBRA rights, and how and when qualified beneficiaries are informed of their rights and responsibilities and timelines.
9. Employers have up to _____ days to notify their COBRA administrator (if they have one) of qualified events. The administrator has an additional _____ days to notify the qualified beneficiaries, another _____ days to elect COBRA and another _____ to send in all retro payments.
10. If qualified beneficiaries are choosing between COBRA and the marketplace, they need to consider that COBRA is _____ while the marketplace is _____.

ANSWERS

1. Federal employer
2. 15. Only four are required (General Notice/Initial Rights Notice, Election Notice, Notice of Unavailability and Notice of Termination of Coverage) of which three are provided by the TPA. The QBs could receive more than that, including coupons, subsidy notices, plan change notices, etc.
3. Anyone
4. active employee, termed employee, retired employee, dependents, officers, directors, self-employed individuals, partners in a partnership, agents and independent contractors
5. State continuation
6. Forty
7. 20 or more; most regular business; year
8. Employers
9. 30; 14; 60; 45
10. Retroactive; prospective

Sources:
www.dol.gov/dol/topic/health-plans/cobra.htm
www.dol.gov/ebsa/faqs/faq-consumer-cobra.html



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