

**BLOG**

# ALL Employers should have a Leave of Absence Policy

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Employees taking a leave of absence (LOA) will very often find their employers lack a formal policy addressing continuation of medical and other group coverage's and premium re-payment instructions. Concern for the employee and a focus on ensuring duties are covered in their absence often makes benefits issues an afterthought - until the pressing questions arise:

- How long do I have to keep my employee on our group benefits?
- Who pays for their premium and how do I collect contributions they may owe?
- What notification do I need to send, if any?



Employers of all sizes inadvertently put themselves at risk by not having a policy establishing how long to continue benefits during an LOA. So, before the important questions arise, employers should establish an LOA Policy that considers employee needs, carrier contractual provisions, federal and state benefit regulations, and the employer's company culture.

The key consideration in developing an LOA policy is your plan document or insurance carrier contracts, which will specify the maximum time period coverage can be continued for an employee on an approved leave or not actively working full-time hours. Different periods of continued coverage can apply not only to medical, but disability, dental, etc., and coverage can vary depending on the type of leave (FMLA, Military, ADA, etc.). Benefit administrators should connect with their broker to ensure the proposed policy is in line with specific contractual provisions.

Violating the carrier's continuation of benefits rules, such as keeping an employee on the group benefit plan much longer than the plan allows, can create real risk. It is not uncommon for carriers to request documentation relating to a leave situation, especially if large claims are incurred. Because "no good deed goes unpunished," keep your plan safe by knowing the benefit continuation rules, treating each employee and each leave consistently and avoiding unintentional discrimination issues.

Employees taking qualified leave under the FMLA are required to continue receiving health benefits for the duration of the protected leave, up to 12 (or 26) weeks. State leave laws may require an even longer extension of coverage, so review the laws in your state(s). Employees on FMLA and other LOAs may

continue the employee-paid portion of the premium by:

- deduction from any amounts paid to them during the leave
- by check; or
- if the employee elects and your policy allows it, pre-payments before the leave starts.

Some employers allow a “catch-up” payment after the employee returns from leave. It is important to obtain a payroll deduction authorization form signed by the employee for any deduction changes that will be made to their paycheck.

During any type of leave, employers may terminate an employee’s coverage if they are more than 30 days late with their portion of premium payment, but must provide at least 15 days’ written notice before the coverage is scheduled to end.

For leaves not categorized as FMLA, an employer is usually not required to maintain an employee’s health insurance coverage for extended periods. However, the employer is required to follow its written policies and apply them consistently. The Americans with Disabilities Act should be understood and considered when creating those written policies.

If you are an employer subject to the Affordable Care Act (ACA), your choice of measurement method (monthly or look-back) may be a consideration in how long to continue benefits during a LOA. Again, it’s important to work closely with your benefits advisor to ensure your plan documents have been updated to reflect your practices, including your measurement method and any applicable stability periods.

Keeping in mind any carrier contractual restrictions, federal and state mandates, and ACA compliance, if there are no clear restrictions or requirements on a benefits continuation period for a LOA, the decision may be left to the discretion of the employer where employment policies and precedents will be a determining factor. Those policies should clearly address the maximum length of time an employee may be covered while on leave before COBRA is offered due to the reduction in hours worked.

Having a Leave of Absence policy in place and regularly updated will minimize risk and create an easier path to communication when employee’s will need it the most. Lastly, always document, document, document!

Have questions about creating a LOA policy, or anything else discussed in this article? Connect with the Risk Strategies Employee Benefits team or connect with the author directly - [sdodge@risk-strategies.com](mailto:sdodge@risk-strategies.com)

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