



# COBRA BASICS:

Save Time, Money & Avoid Mistakes

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# Welcome to the Webinar!



- We will email you the recording and slides within 24 hours.
- Please participate in our poll & knowledge checks
- Please use the Q&A box for questions

# Learning Outcomes

At the end of the webinar, participants will...

1. Gain confidence in managing basic COBRA responsibilities
2. Have a clearer understanding of how to approach situations that are not clearcut
3. Take away COBRA administration best practices to help avoid common mistakes and how to resolve them if/when they occur



*Important! There can also be other required rights, like state mini-COBRA or conversion provisions. These will **not** be covered in this webinar. However, you can visit our platform for our state-specific mini-COBRA resources.*

# Agenda



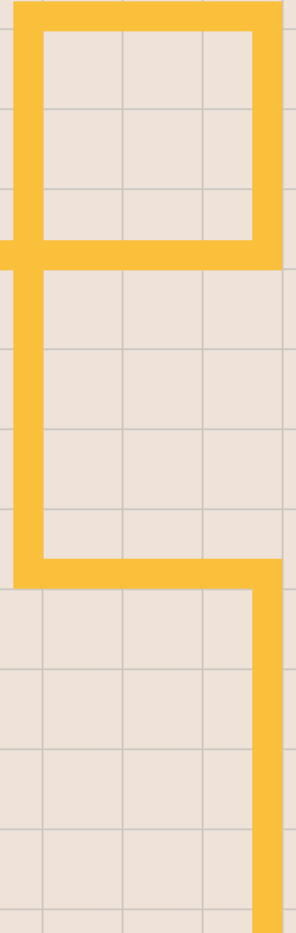
- Covered employers
- Basic parts of COBRA
- Common mistakes
- Administration best practices



# Poll Question

How confident are  
you in your current  
**COBRA**  
administration  
practices?

# Covered Employers



# Consolidated Omnibus Budget Reconciliation Act (COBRA)

## Covered Employers

### Private Employers

- Private employers with 20+ employees on 50% or more of their typical business days in the previous calendar year
- Controlled groups (e.g. parent/subsidiary and brother/sister companies) are counted together
- Many church organizations are exempt
- COBRA is made part of the *Employee Retirement Income Security Act* (ERISA) and the IRS Code

### Public Employers


- COBRA is part of the *Public Health Service Act* (PHSA) for public employers
- Non-federal public employers like state or local governmental entities (cities, municipalities,) public school districts
- If you aren't sure if you are "public" check with legal counsel.



# Covered Employers

How to count employees for COBRA calendar year determinations...

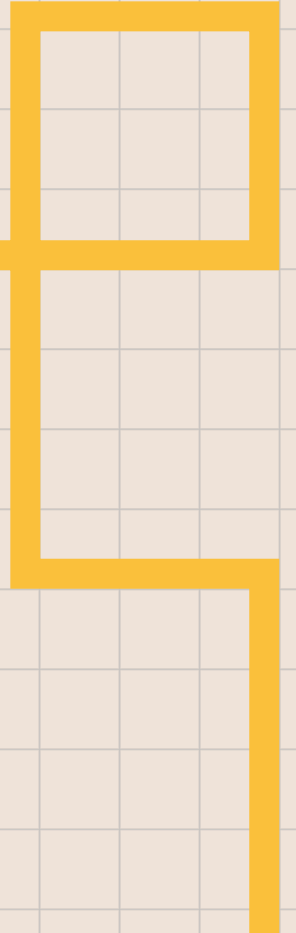
	Full-Time (40 hours)	Part-Time (20 hours)	Part-Time (25 hours)
Employee Count	10	5	8
	$40/40 = 1$	$20/40 = 1/2$	$25/40 = 5/8$
	$1 \times 10 = \underline{10}$	$1/2 \times 5 = \underline{2.5}$	$5/8 \times 8 = \underline{5}$
COBRA Count	$10 + 2.5 + 5 = 17.5$ total employees		



Not a COBRA  
Covered Employer



# Basic Parts of COBRA



# Basic Components of COBRA

Dissecting the employer's various obligations



**Remember!** COBRA regulations set the minimum plan continuation obligations; however, employers can have plans written with more expansive rights creating a legal obligation to administer them as written.

# 1. Qualified Beneficiaries (QBs)

*A qualified beneficiary who loses group health plan coverage due to a qualifying event may elect to continue coverage for a limited time on a self-pay basis.*

- An individual covered by a group health plan on the day before a qualifying event occurred who is an employee, their spouse/former spouse, or their dependent child
- Special Additional Cases:
  - a child born to, or placed for, adoption with a covered employee during a COBRA coverage period
  - a retired employee (and their spouse/children) in certain bankruptcy cases





# Knowledge Check

**A qualified beneficiary is an employee, spouse, or child enrolled in the group health plan on...**

## 2. Group Health Plans (GHPs)

*A qualified beneficiary who loses group health plan coverage due to a qualifying event may elect to continue coverage for a limited time on a self-pay basis.*

- Any arrangement that an employer establishes or maintains to provide employees or their families with medical care including dental, vision, prescription drug, and similar care
- Can include things you might not expect, like certain Employee Assistance Programs (EAP)

Example Benefit Type*	COBRA Eligible	Not COBRA Eligible
Medical	✓	
Dental	✓	
Vision	✓	
Health Flexible Spending Account (HFSA)	✓	
Health Reimbursement Arrangement (HRA)	✓	
Dependent Care Flexible Spending Account (DFSA)		✗
Life Insurance		✗
Disability Insurance		✗

\*This is not an exhaustive list but covers common examples

# 3. Qualifying Events (QEs)

*A qualified beneficiary who loses group health plan coverage due to a qualifying event may elect to continue coverage for a limited time on a self-pay basis.*

Employee Events	Spouse Events	Dependent Child Events
<ul style="list-style-type: none"><li>• Termination of employment (except gross misconduct)</li><li>• Reduction in hours of employment</li></ul>	<ul style="list-style-type: none"><li>• Events in the Employee column, <i>plus</i></li><li>• Covered employee becoming entitled to Medicare</li><li>• Divorce or legal separation</li><li>• Death of the covered employee</li></ul>	<ul style="list-style-type: none"><li>• Events in the Spouse column, <i>plus</i></li><li>• Losing dependent child status under plan (i.e. turning age 26)</li></ul>

# 4. COBRA Election Rights

*A qualified beneficiary who loses group health plan coverage due to a qualifying event may elect to continue coverage for a limited time on a self-pay basis.*

## Stand-Alone Elections

- Each QB has independent election rights.
  - Example: An employee is offered *employee+family* medical and dental coverage via COBRA.
  - A spouse could choose to elect only dental coverage for themselves, without the employee or child

## OBO (On Behalf Of) Elections

- QBs can elect on behalf of other QBs; waiving is another matter

## Deadlines to Elect

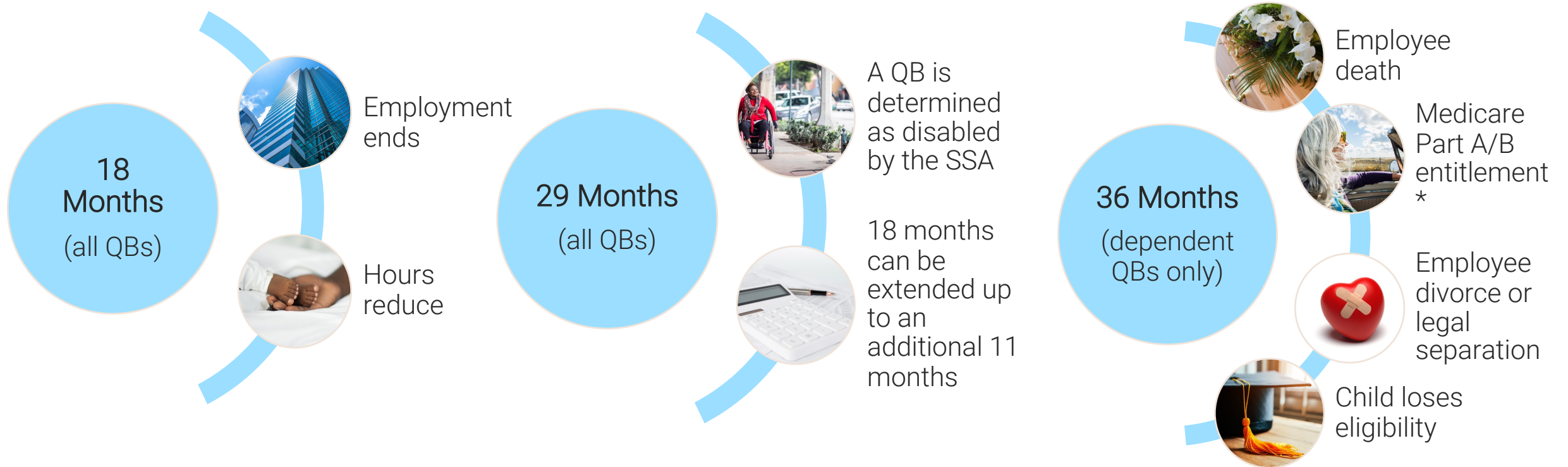
- Employers must send election notices
- QBs must be given at least 60 days to decide to elect

## Identical Coverage

- COBRA offers must be identical to coverage currently available to similarly situated active individuals.
- Generally, this is the same coverage in place for the QB immediately before the qualifying event.

# 5. Length of COBRA

- This is the most that is required by event type
- Certain early termination events can occur, shortening these maximum entitlements for a particular QB

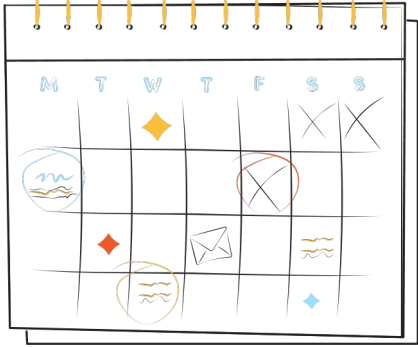




# Knowledge Check

How long does COBRA last if an employee goes from full time to part time status and is no longer eligible for coverage?

# 5. Length of COBRA: Special Rules



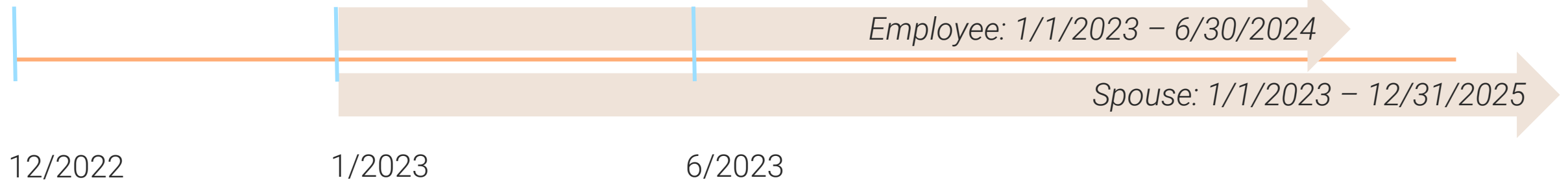
**Secondary Event Extensions.** If a QB has an 18 or 29-month COBRA entitlement and experiences a secondary QE, they can extend coverage to 36 months only if

the second QE would have caused the QB to lose coverage under the plan in the absence of the first QE.

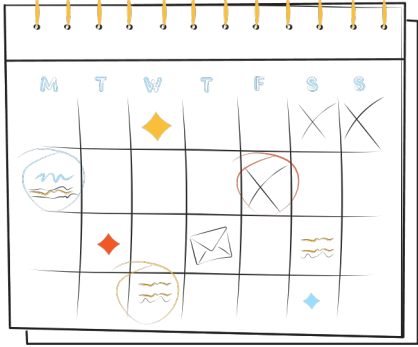
Employee reduction of hour event  
→ 18 months

COBRA offered to Employee & Spouse

Employee and spouse divorce (30-month spousal extension)



# 5. Length of COBRA: Special Rules



**Medicare Enrollment Extension.** When an employee experiences a COBRA qualifying event that provides 18 months of COBRA coverage **BUT**

the employee enrolls in Medicare less than 18 months before their COBRA qualifying event, **THEN**

COBRA coverage for the employee's dependents can last until 36 months after the date the employee becomes enrolled Medicare.

Enrolled in GHP and then also enroll in Medicare Parts A/B

Employee Resigns  
→ 18 months of COBRA



# 5. Length of COBRA: Early Termination

The group health plan may terminate COBRA early and with the proper notice for the following five reasons:

## Premium Nonpayment

- Premiums are not paid on a timely basis
- Premiums are not paid in full

## No GHP Offered

- The employer ceases to maintain any group health plan
- This includes any successor employers

## QB Enrolls in Other Coverage

- As long as that plan does not impose an exclusion or limitation with respect to the QB's pre-existing health condition

## QB Misconduct

- A QB engages in conduct that would justify the plan in terminating coverage of an actively covered member (such as fraud)

## Medicare Enrollment

- A QB enrolls in Medicare Part A and/or B after electing medical under COBRA

# 6. COBRA Cost: 18 & 36 Month Events

*A qualified beneficiary who loses group health plan coverage due to a qualifying event may elect to continue coverage for a limited time on a self-pay basis.*

## 18 Month Events (all QBs)

- Employment ends
- Hours reduce

## 36 Month Events (dependent QBs only)

- Employee death
- Medicare Part A or B entitlement
- Employee divorce or legal separation
- Child loses eligibility

## How Much Can You Charge?

- Up to 102% of total premium billed by the carrier or as established under a self-funded arrangement

## Example:

- Premium is \$500/month for employee only medical
- COBRA allows charging up to \$510/month (\$500 x 102%)

## Rate Determination Period

- Establish COBRA premium costs in advance of each 12-month premium cycle (usually the plan year), with minor exceptions
- If premium rates decrease in this period, an adjustment down is required (not to exceed 102% or 150%)

# 6. COBRA Cost: 29 Month Event

*A qualified beneficiary who loses group health plan coverage due to a qualifying event may elect to continue coverage for a limited time on a self-pay basis.*

29 Month  
Event  
(all QBs)

- A QB is deemed disabled by the Social Security Administration
- 11-month extension of original 18-month event

## How Much Can You Charge?

- Up to 150% of total premium billed by the carrier or as established under a self-funded arrangement
- Only applies to QBs in the 11 month-extension period

## Example:

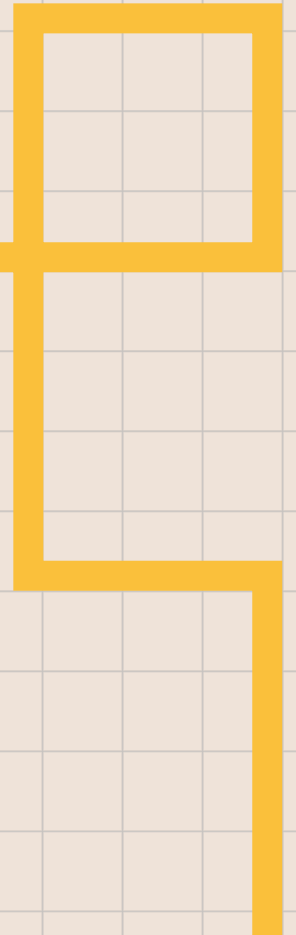
- Premium is \$500/month for employee only medical
- COBRA allows charging up to \$750/month (\$500 x 150%)

## 6. COBRA Cost: Payment Deadlines

*A qualified beneficiary who loses group health plan coverage due to a qualifying event may elect to continue coverage for a limited time on a self-pay basis.*

- QBs must be permitted to pay premiums on a monthly basis; however, the employer could allow them to make payments at other intervals (weekly or quarterly)
- Initial payment is due within 45 days after the election date; typically, retroactive to cover the cost from original loss of coverage date to the date of the election.
- Ongoing payments are due on the date stated in the plan with a minimum 30-day grace period for payments
- Payment is considered made on the date it is sent/post-marked
- The employer is not obligated to send monthly premium notices/reminders

# Common COBRA Mistakes





# Common COBRA Mistake: Covered Employer Status

*This often can occur when...*

- An employer who was not subject to COBRA hires its 20<sup>th</sup> employee
- An employer doesn't count their staff in the manner the regulations prescribe
- Employee counts fluctuate  $\pm$  20 employees from one year to another
- An employer isn't aware of or misinterprets common ownership/affiliated rules and fails to count all employees accurately



# Required Notices

*There are a LOT of required notices. The most common are...*

- General Rights Notice
- Qualifying Event Notice
- Election Notice
- Notice of Unavailability
- Notice of Early Termination



**Tip:** Check out the *COBRA Compliance Chart* on our platform for a list of all the notices, including optional ones

# Required Notices

These aren't all the required notices, but they are the most common

Mandatory Notice	Responsible Party	Deadline
General Rights Notice	<ul style="list-style-type: none"><li>Plan Administrator → Covered Employee &amp; Spouse</li></ul>	<ul style="list-style-type: none"><li>Within the first 90 days of coverage</li></ul>
Qualifying Event Notice <ul style="list-style-type: none"><li>Termination/Reduction in hours</li><li>Death of the employee</li><li>Enrollment in Medicare</li></ul>	<ul style="list-style-type: none"><li>Employer → Plan Administrator</li></ul>	<ul style="list-style-type: none"><li>Within 30 days of the event</li></ul>
Qualifying Event Notice <ul style="list-style-type: none"><li>Divorce/legal separation</li><li>Loss of child eligibility under the plan</li></ul>	<ul style="list-style-type: none"><li>Employee or QB → Plan Administrator</li></ul>	<ul style="list-style-type: none"><li>Within 60 days of the event</li></ul>
Election Notice	<ul style="list-style-type: none"><li>Plan Administrator → Employee or QB</li></ul>	<ul style="list-style-type: none"><li>Within 14 days of being informed of QE</li><li>If the employer is the plan administrator, then they have 44 days total (30 + 14 = 44)</li></ul>
Notice of Unavailability	<ul style="list-style-type: none"><li>Plan Administrator → Employee or QB</li></ul>	<ul style="list-style-type: none"><li>Within 14 days after coverage is requested</li></ul>
Notice of Early Termination	<ul style="list-style-type: none"><li>Plan Administrator → Employee or QB</li></ul>	<ul style="list-style-type: none"><li>ASAP after the decision is made</li></ul>

# Common COBRA Mistake: Required Notices

- An employer doesn't distribute a required notice
- An employer sends a notice but doesn't follow required formats or information
- The contents of the notice are incorrect/incomplete
- Notices are sent, but a QB is missed.
- Incorrect/incomplete benefits offered to a QB
- The employer uses inadequate COBRA Notices, Forms, Plan Language, or SPD Disclosures

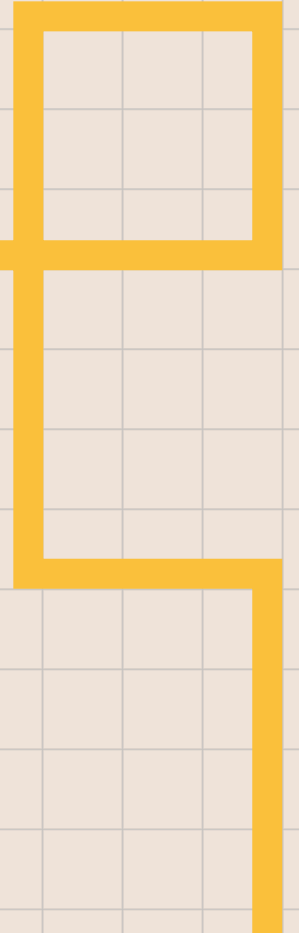


# Common COBRA Mistake: Cost of Coverage



- Incorrect rates are communicated to the COBRA administrator
- A QB is charged too little or too much for COBRA
- Payment deadlines are not enforced or applied inconsistently

# Administration Best Practices



# Expedient Elections

## Tips to minimize adverse selection

- Start the 60-day election period ASAP
- Consider offering inducements for early election/payment
- Consider including a waiver in the COBRA election mailing to reduce COBRA period available.



# Communication

## Tips to minimize communication-based issues

- Establish/maintain good communication between the COBRA administrator and QBs
- Best practice is to communicate in writing
- Make sure your answers align with what your plan allows
- Effective communication can help avoid litigation





# Extensions

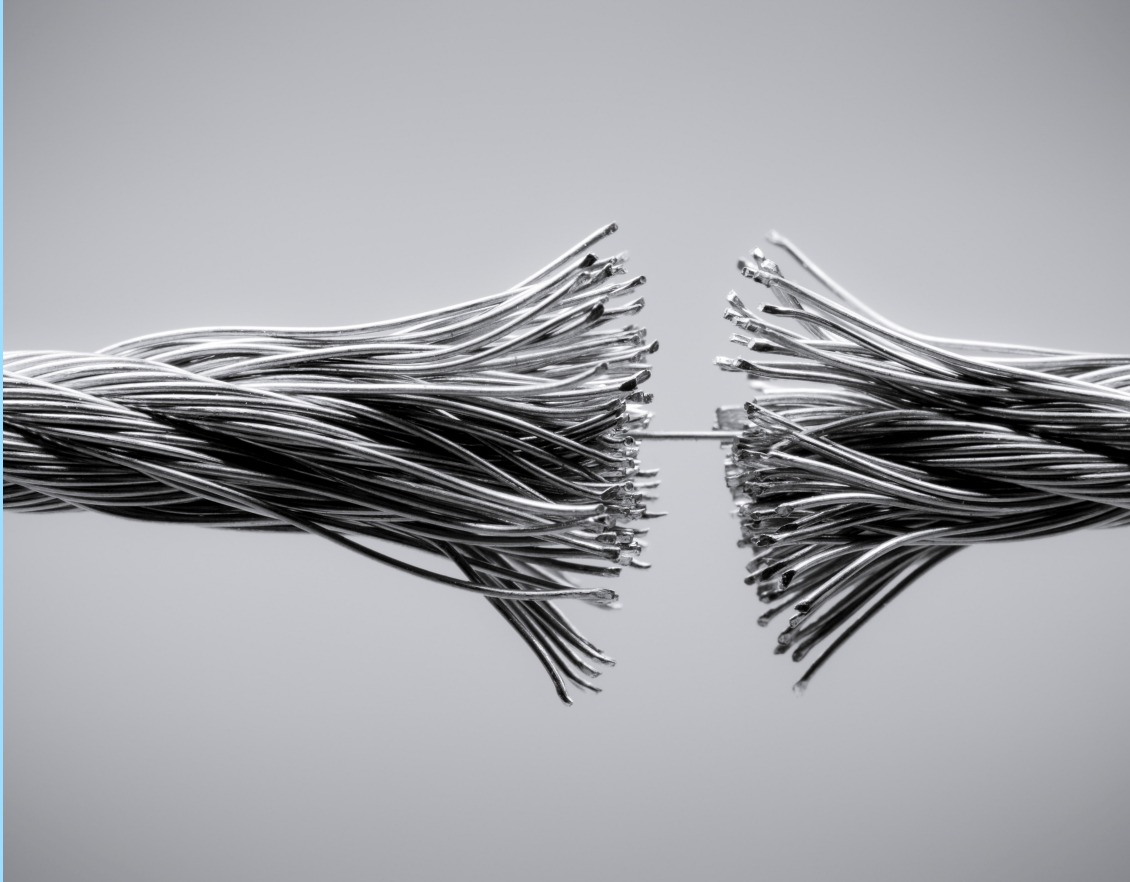
## Tips to prevent offering COBRA for longer than necessary



- There are secondary events that can cause COBRA to end early
- Many of these are only known to the QB (divorce, child aging off, etc.)
- Create an open line of communication with the QB to capture these in a timely manner

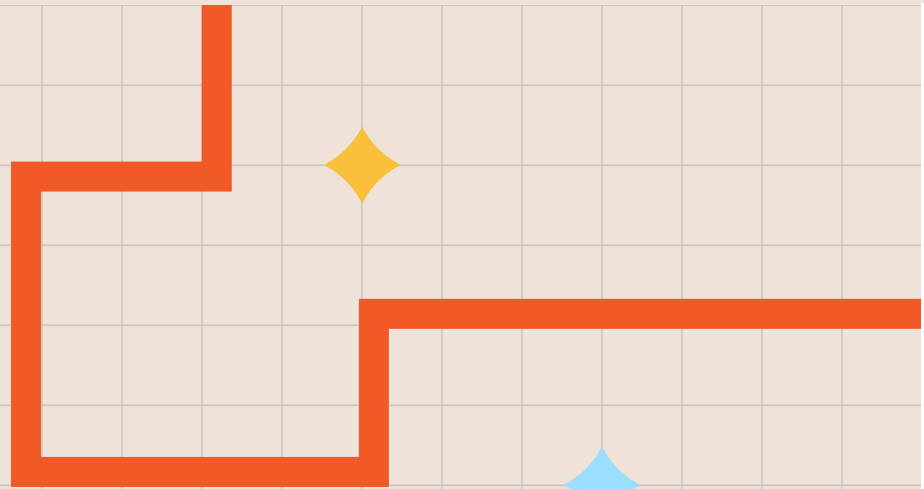
# Process

## Tips to minimize process-based compliance risk



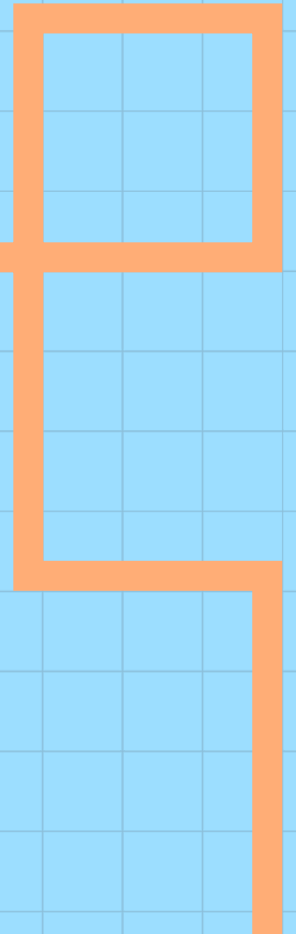
- An established system still needs to be maintained; mistakes happen
- Establish a routine audit process to catch system breaks, communication breaks, etc.
- Correcting errors is easier when discovered early

# Resources

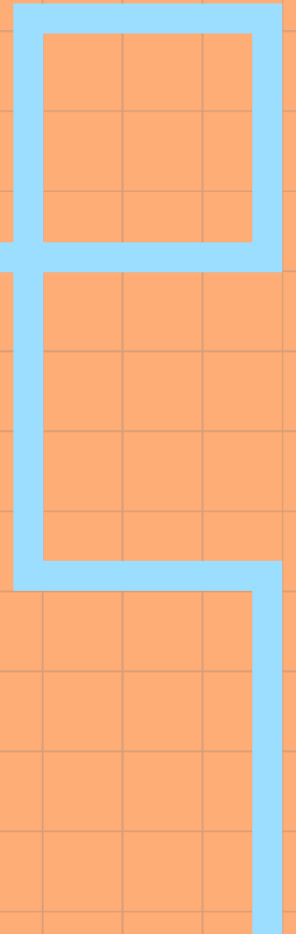


- COBRA Law pages
- COBRA Compliance Chart (includes sample required and optional COBRA notices)
- [Department of Labor's Employer Guide](#)
- [Department of Labor's Employee Guide](#)

Q+A



Thank you!



# Appendix

## Common COBRA Mistakes: Illustrative Sample Cases



## *Pyrite Cactus Company (PCC)* Covered Employer Status: Sample Case


- On May 1, 2022 PCC hired *Opal Moonstone*, its 20<sup>th</sup> employee
- Their group health plans renew each November 1<sup>st</sup>
- HR manager *Rose Quartz* needs to determine when to start offering COBRA and initial steps to do so with their carriers

# *Pyrite Cactus Company* Covered Employer Status: Sample Steps

1. Rose pulls PCC's payroll records for 2022 to see if they in fact had 20+ total employees on more than 50% of their typical business days.
2. Rose correctly concludes that they must start offering COBRA effective January 1, 2023 for any qualifying events that occur on or after that date.
3. Rose calls her insurance broker and asks for help in facilitating this with the carriers. They assist with amending the plan documents to include the General Rights Notice as well as inform participants of these new rights by issuing a Summary of Material Modifications (SMM), noting the changes made in the Summary Plan Description (SPD).
4. They also discuss partnering with a trusted third-party vendor for COBRA administration as the carriers will not manage this for them.





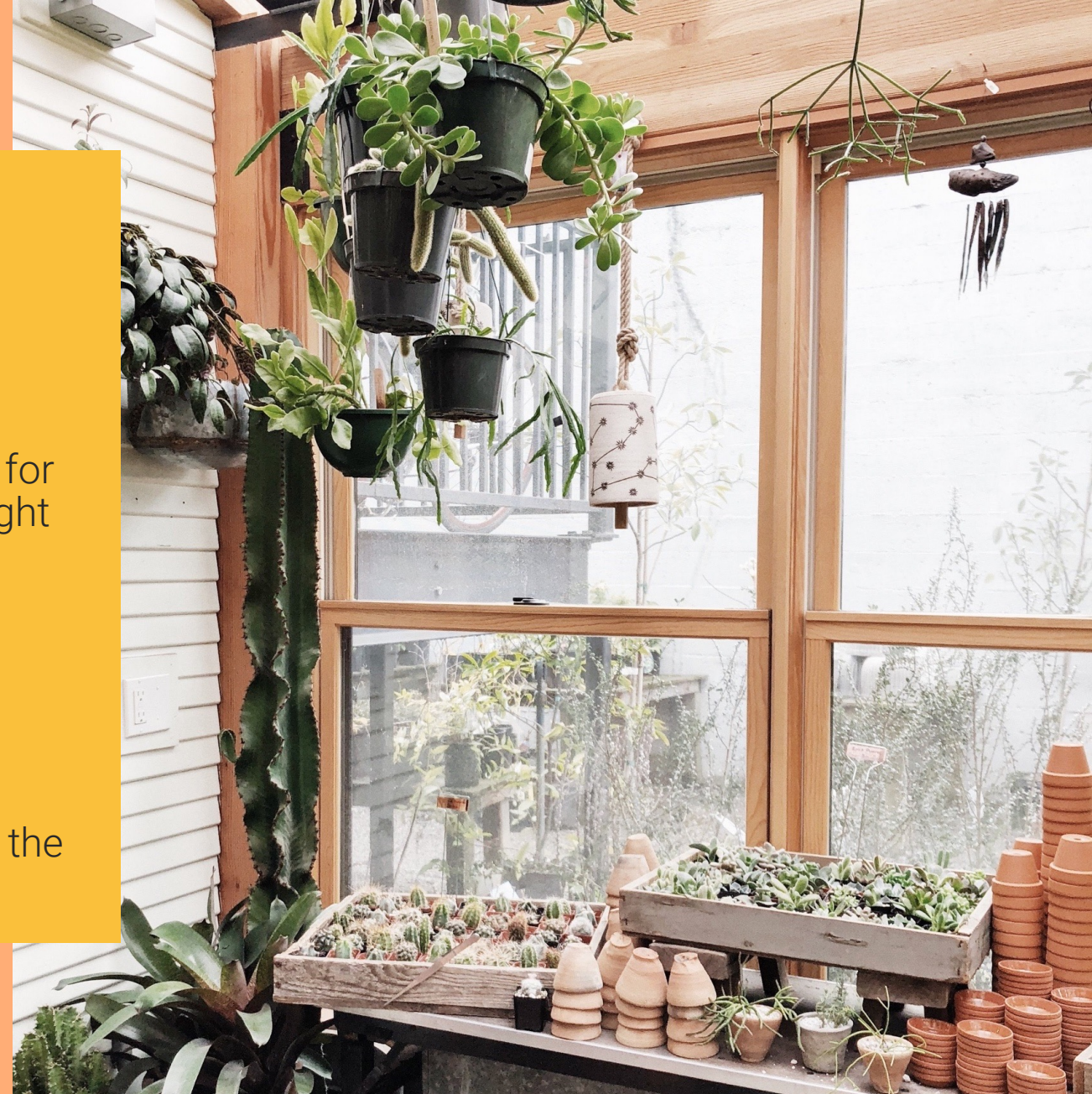



## *Pyrite Cactus Company* Notice Failures/Errors: Sample Case

- Rose took her broker's recommendation and partnered with a TPA for COBRA administration. The TPA has agreed to send out required notices.
- Opal has a reduction of hours to part-time and no longer is eligible for benefits on March 1, 2023.
- However, Rose forgets to notify the TPA so a COBRA Election notice is never sent and doesn't realize this until a few months later when Opal asks about it.

# *Pyrite Cactus Company* Notice Failures/Errors: Sample Steps

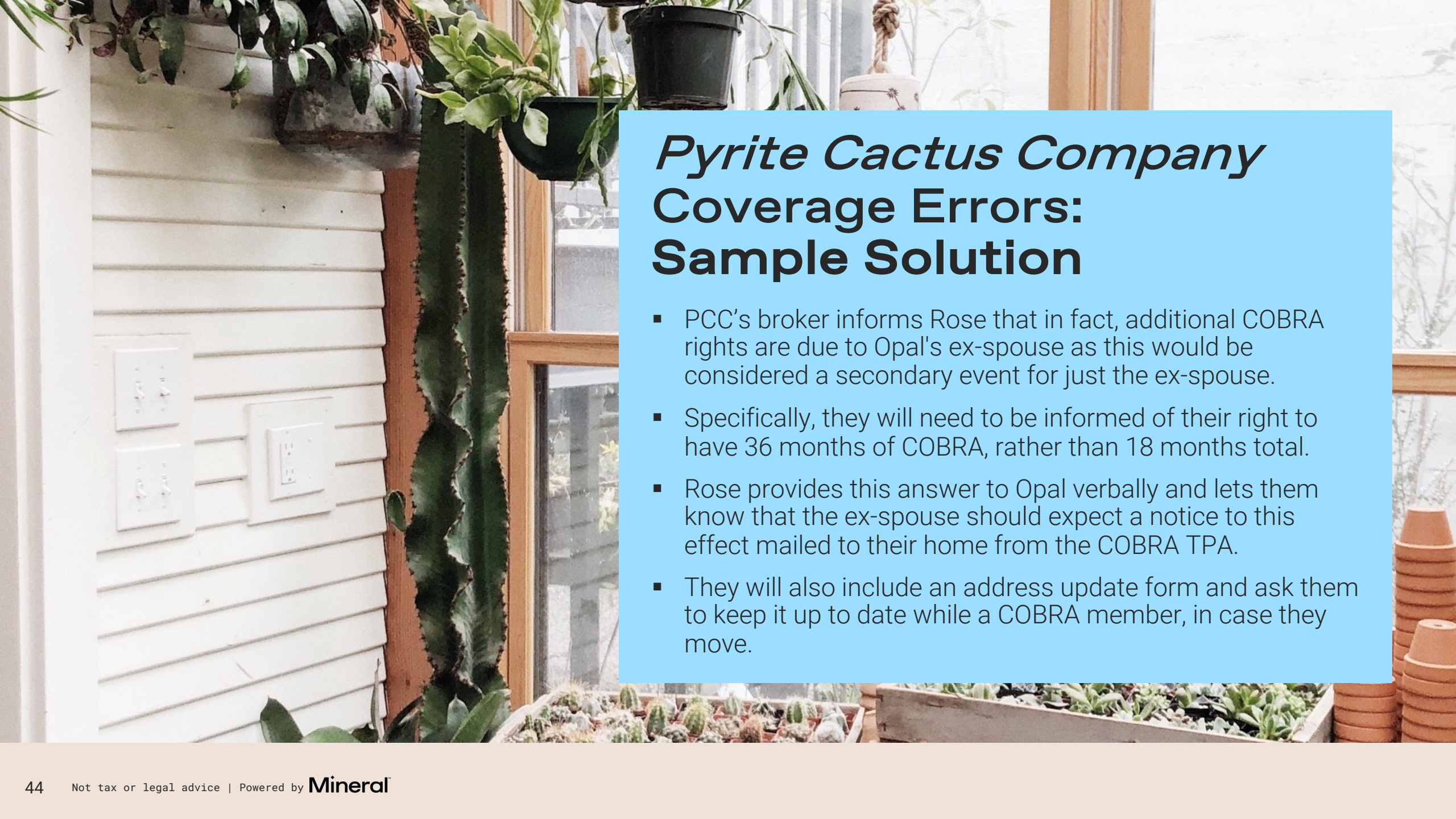
- Understanding that PCC is ultimately responsible for the notice, Rose apologizes to Opal for the oversight and asks the TPA to get the election notice to her ASAP and she is given the full 60 days to elect.
- Rose and her broker have a call with the TPA to discuss how to automate this better as well as a system of checks and balances so that future misses can be avoided.
- They document the error that occurred with Opal, the corrective action taken, and their new process.





# *Pyrite Cactus Company* Coverage Errors: Sample Case

- In August 2023, Opal gets divorced, after electing COBRA.
- Since already on COBRA, Rose takes no further action, assuming there are no additional rights.
- Opal asks whether she or her ex-spouse get more COBRA. Now unsure, Rose reaches out to her broker to confirm.



## *Pyrite Cactus Company* Coverage Errors: Sample Solution

- PCC's broker informs Rose that in fact, additional COBRA rights are due to Opal's ex-spouse as this would be considered a secondary event for just the ex-spouse.
- Specifically, they will need to be informed of their right to have 36 months of COBRA, rather than 18 months total.
- Rose provides this answer to Opal verbally and lets them know that the ex-spouse should expect a notice to this effect mailed to their home from the COBRA TPA.
- They will also include an address update form and ask them to keep it up to date while a COBRA member, in case they move.



# *Pyrite Cactus Company*

## Cost Errors: Sample Case

- In January 2023, Opal calls the COBRA TPA to ask why their COBRA rates changed/increased and they are referred to Rose to confirm.
- Rose confirms with Opal that their current rate determination period ended, and these are the new rates for this plan year of Jan. 1 – Dec. 31, 2023.
- It does look like however, that there was a typo on their COBRA rates provided and are being asked to pay 120%, rather than 102% of the premium.



# *Pyrite Cactus Company*

## Cost Errors: Sample Steps



- In addition to issuing a revised rate sheet to Opal, Rose confirms that while the rates have increased for all COBRA members, a typo has occurred.
- Rose Quartz then checks in with the COBRA administrator to ensure that this was the only incorrect letter issued and that requires correction. Luckily, it was.
- She also confirms the correct rates for all lines of coverage with the COBRA partner on file are accurate to avoid additional errors being communicated to QBs.