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## Loss of Coverage Triggers COBRA Notice Requirement

Most plan administrators are aware that a loss of health care upon a “qualifying event,” such as termination of employment, entitles an employee participating in the health plan to a COBRA notice. Loss of coverage is defined under Department of Treasury Regulations to mean “to cease to be covered under the same term and conditions (emphasis added) as in effect immediately before the qualifying event.” A recent Virginia District Court case discussed this COBRA requirement.

Plaintiffs elected an early retirement package that included free health care coverage until age 65. Because the employees were receiving free health care, the employer did not provide the retirees with a COBRA notice. There were significant differences between the benefits offered to active employees and retirees. According to the court, the retirees should have been given the opportunity to elect to pay for COBRA continuation coverage identical to the active employee coverage for eighteen months, rather than to receive free retiree coverage with a with a different set of benefits until age 65.

If we can provide you with assistance in any COBRA matters, including the development of COBRA procedures, please call the undersigned.

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