When Divorce Affects Healthcare Coverage, Review Options and Avoid a Gap in Coverage

by Maura Carley, MPH, CIC, Founder and CEO, Healthcare Navigation, LLC

Published in the *American Bar Association's Family Advocate Magazine*, July 2025 issue.

Healthcare coverage is one of the most important financial protections an American can have. Most individuals in the United States have either group coverage through an employer or union, individual coverage, or are covered by Medicare or Medicaid. There are also other types of coverage, such as short-term coverage, Christian healthcare co-ops, or products that purport to provide access to coverage through a union or association that anyone can join, but one's objective is to obtain comprehensive coverage regulated by a state or federal agency as presented below.

Many individuals going through a divorce will not have their healthcare coverage affected because they are the subscriber in a group or individual plan, or are eligible for Medicare or Medicaid on their own. Even though these individuals sometimes have a joint account with their spouse, such as a Medicare supplement joint account, for example, upon or prior to the divorce they should separate the joint account into two individual accounts. This is an administrative matter and should not result in loss of coverage.

However, when the individuals do not qualify for coverage on their own, divorce often results in a loss of coverage, and anyone facing a loss of coverage should plan ahead to avoid a gap.

Loss of Coverage Due to Divorce - Group

When a divorce is final, a former spouse on a group plan through an employer or union as a former dependent is not eligible to remain on the plan but is eligible for COBRA, explained further below, which is the temporary extension of group coverage at one's own expense. COBRA, an acronym for Consolidated Omnibus Reconciliation Act of 1985 was passed by Congress to provide a temporary safety net for those losing eligibility for group coverage. Federal COBRA applies to group coverage through an employer or union of twenty or more employees. For groups of under twenty employees, so-called "mini-COBRA" applies and is state-based. Federal COBRA allows for up to thirty-six months of additional coverage for an individual losing coverage through a divorce. Someone who elects COBRA pays the full cost of the premium plus an administrative fee. Anyone losing small group coverage should research their state's mini-COBRA program because the coverage extension period is often much shorter than under federal law.

Loss of Coverage Due to Divorce – Individual Plan

Another option to consider if losing group coverage is the purchase of an individual plan. Involuntary loss of coverage through a divorce is a qualifying event which creates a special enrollment period of sixty days to apply for individual coverage. Individual coverage is based on the state of one's primary residence and is purchased through the federal marketplace, healthcare.gov, a state-based marketplace or directly from the insurance company.

If group coverage is not involved and a divorcing couple have individual coverage together, the separation of the joint account into individual accounts is an administrative matter to sort out with the insurance company. This may involve new identification cards or even worst case, reapplying for the coverage.

Evaluating Coverage Options When COBRA and Individual Coverage Are Both Options

There are many factors that should be considered when someone losing group coverage chooses between COBRA and individual coverage. In many states, the network of physicians available through individual coverage is not as attractive as what is offered to those with group coverage. And many products in the individual market limit all but urgent and emergent care to one's local area. The network issue is the primary reason many losing group coverage through divorce remain on COBRA coverage as long as possible.

However, if a divorcing spouse losing group coverage is eligible for a subsidy in the individual market, that may be a compelling reason to consider individual coverage.

COBRA premiums vary widely and individual coverage in most states is age-rated. There are many more options for coverage in the individual market than offered through a group. One should evaluate options based on projected cost, the provider network, the type of insurance product offered, and the rules of the Plan.

Anyone who remains on COBRA should save the documentation associated with the COBRA election and any official correspondence indicating the end of COBRA. If one applies for individual coverage outside the official open enrollment period, documentation substantiating the end of COBRA coverage will be necessary to prove involuntary loss of coverage which creates the special enrollment period. One has sixty days from the end of COBRA to qualify for individual coverage but plan ahead in order to avoid any gap in coverage if at all possible.

Medicare

Most individuals are eligible for Medicare at age sixty-five and should transition to Medicare. According to federal law, those who work for a company of twenty or more should be offered the group plan offered to employees under age sixty-five and can defer a transition to Medicare.

Anyone losing group coverage and eligible for Medicare should transition to Medicare and not consider COBRA. The employer or COBRA administrator rarely distinguish between the Medicare-eligible population and other workers in this regard but COBRA was never intended for Medicare-eligible individuals. Coordination of Benefit rules indicate COBRA should be secondary to Medicare Part A and Part B so one should already be on Medicare A and B to properly elect COBRA as secondary but that is rarely a wise financial decision.

Because Medicare is always associated with an individual, if a divorcing couple are both on Medicare, there is no impact on their coverage unless, as mentioned previously, they have a joint account for their private Medicare supplement. Again, that is simply an administrative issue to separate the accounts, set up new payment mechanisms and possibly obtain new insurance cards.

Even if the individual on Medicare has earned Medicare eligibility on a spouse's work record, divorce does not subsequently affect one's Medicare coverage.

Medicaid

Medicaid is a joint federal and state program and state environments vary. The Affordable Care Act allowed for the expansion of Medicaid to take advantage of more federal funding and most states at this point have implemented Medicaid expansion. Unlike other types of coverage, Medicaid has continuous open enrollment so one can apply for Medicaid at any time and the state agency involved will assess the applicants' eligibility based on income.

If an entire family is on Medicaid and the parents divorce, each parent should notify the state agency which administers Medicaid because the former spouse's eligibility will depend on the income of each individual.

Summary

Evaluating healthcare coverage options can be a complex task for the novice but the objectives are to select the best coverage option one can afford and avoid a gap in coverage. Losing healthcare coverage due to divorce can also be challenging because unlike other qualifying events, divorce is self-reported to the employer or union and there can be a lack of goodwill when the divorce is bitter. Of course, the opposite can also be true. The divorcing spouse who is the subscriber doesn't report the divorce timely to keep the former spouse on the plan. This is not wise because a divorced spouse is not eligible for the group coverage and risks having claims denied. We have also seen situations where small business owners adds a former spouse as an employee to maintain their coverage. This is also not wise if the individual is not an employee. Always review coverage options for which you are eligible. Again, if you are losing coverage through divorce, plan ahead to understand your options and avoid a gap in coverage.