THE COBRA GAME: AN ORIGINAL CASE STUDY BASED UPON REAL-LIFE EVENTS

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ABSTRACT

Business ethics has become an important component for external certification of higher education curricula and programs. This case profiles the decision-making of an MBA student as he makes choices regarding his family's health insurance coverage while moving from his original employer, a hospital, to a new healthcare clinic. The healthcare clinic's benefits administration team has chosen a 90-day waiting period for all new employees before they become eligible for the clinic's group health insurance. Cost concerns for the affected family are increased when the real cost of the family's health care monthly premium is realized. These concerns are further confounded by interpretation of the Consolidated Omnibus Budget Reconciliation Act (COBRA) guidelines for notification, acceptance, and premium payment. To compound the COBRA decision, the employee must also consider how the Affordable Care Act (2010) and the Health Insurance Marketplace may affect the family's transition with regards to retaining health insurance benefits during his employment transition.

Keywords: Business ethics, benefits, health insurance, personnel law

INTRODUCTION

Research has identified how successful MBA graduates and the programs they choose to complete focus on developing "skills, capabilities, and techniques as well as cultivating values, attitudes, and beliefs" (Datar, Garvin, & Cullen, 2011, p. 451). In the United States, corporate scandals have re-ignited a necessity for the inclusion of business ethics in undergraduate and graduate program curricula. Thus, accrediting agencies of business programs include criteria to assure the teaching of business ethics in each degree program. The two major business education accrediting agencies are AACSB International and ACBSP. As part of Standard 9, AACSB International requires reasoning and ethical understanding beginning in bachelor programs, continuing through master and doctoral programs. The AACSB International focus is to promote social responsibility, sustainability, and ethical behavior (AACSB, 2013). For the ACBSP, business ethics is considered part of the "common professional component" (Wankel & Stachowicz-Stanusch, 2012, p. 514) in all business programs. The “common professional components” are elements such as ethics that need to be infused into each course in a business program’s curriculum. In both accrediting agencies, ethics is a major focus for the future practice of business management.

This case presents a potential ethical conundrum concerning an MBA student's decision to opt out of Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation of health coverage for himself and his family while transitioning between employers. Four professionals with health care experience were members of the same MBA project team. Three are pharmacist managers in different health care facilities; the fourth is a human resources manager with health care experience. During the team’s work sessions, 'Burt' informed his team about a professional move from one hospital to an unrelated health care network. This change in employment was a COBRA-qualifying event.

COBRA

The Consolidated Omnibus Budget Reconciliation ACT or COBRA provides workers and families who have lost their health benefits the right to continue group health benefits provided by their previous group health plan for a limited period (U.S. Department of Labor, 2015). Qualifying events include voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Impacted employees are to be notified of their COBRA rights within 14 days of the qualifying event (United States Department of Labor (b), 2015).

COBRA applies to all private employers with 20 or more workers, as well as state and local governments. The Federal Government as well as churches and certain church-related organizations are exempt. The individual will be enrolled in the exact plan that he or she was enrolled in previously with the same coverage and benefits. If the plan changes while an individual is utilizing COBRA, the individual is also eligible for the change in coverage (United States Department of Labor (b), 2015).

When COBRA is activated, individuals pay the total premium cost of the group plan. Additionally, charges of up to 2% of the cost can be added for the administration of the plan. For qualified beneficiaries receiving an 11-month disabilities extension, premiums can be 150% of the plan’s total coverage. Payments can be made on a monthly basis and may be allowed at other intervals (United States Department of Labor (b), 2015).

Plans cannot ask COBRA recipients to make a premium payment at the time of the COBRA election. After making the election to utilize COBRA, plans must provide at least 45 days to make the first premium payment. If a payment is not made with 45 days, COBRA coverage can be terminated. If elected, premium due dates should be established with a 30-day grace period for each payment (United States Department of Labor (b), 2015).

CASE APPLICATION OF COBRA

Burt and his wife have two young sons who were actively involved in sports and activities. One boy was so active that Burt and his wife wondered if Attention Deficit Disorder (ADD) could mildly be present. No formal testing or diagnosis had been completed. Burt earned a pharmacist's salary; however, he and his wife decided she would stay home while the boys were young. Because the family depended upon Burt's salary and benefits, expense decisions (such as whether or not to pay the COBRA rate premium to continue his hospital's insurance) were carefully considered. Burt's health insurance benefits for his family ended at midnight of his final day of work at the hospital.

The payroll deduction for Burt's family health insurance was $94/month. When he inquired as to how much the COBRA payment would be, he discovered his employer's annual premium paid for family health care coverage was $17,487. This amounted to $1,457 per month. With a little research, Burt could justify this amount because he found "average family premiums for workers in larger firms of 200 or more workers" was $17,265 (Kaiser Family Foundation, 2014). Exhibit 1.1 summarizes the average costs of various types of health insurance plans, as determined by the Kaiser Family Foundation. There were some variations in cost averages based upon the size of the organization, but Burt could see his employer was within these ranges. In Burt's case, and as is allowed by COBRA, the COBRA premium rate can be up to 102% to help the third-party administrator with administrative costs. Burt went from believing he would pay $94/month to continue his family's health care coverage to a reality that the monthly premium would be $1,486.

Exhibit 1.1
Average Monthly and Annual Premiums for Covered Workers, Single and Family Coverage, by Plan Type, 2014

	Monthly	Annual
HMO		
Single Coverage	$519	$6,223
Family Coverage	$1,449	$17,383
PPO		
Single Coverage	$518	$6,217
Family Coverage	$1,444	$17,333
POS		
Single Coverage	$514	$6,166
Family Coverage	$1,336	$16,037
HDHP/SO		
Single Coverage	$442*	$5,299*
Family Coverage	$1,283*	$15,401*
ALL PLAN TYPES		
Single Coverage	$502	$6,025
Family Coverage	$1,403	$16,834

* Estimate is statistically different from All Plans estimate (p<.05).

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2014.

Retrieved from http://kff.org/report-section/ehbs-2014-section-one-cost-of-health-insurance/

Burt pondered if he should consider asking his new employer if they would hire him and waive their 90-day waiting period on day one providing health care benefits for his family. He contacted the human resources department of the new healthcare facility, but their response was that the 90-day waiting period policy needed to be administered the same for all salaried employees who would have full-time employment status. His new employer confirmed that the Affordable Care Act stipulated 90 days meant 90 days, not, three months (Jost, 2014). Burt decided to research more about COBRA and the Affordable Care Act.

Evaluating Alternatives

Burt's alternatives to continuing the group health care plan from the hospital include opting for a spouse's plan, the Health Insurance Marketplace, or Medicaid (Employee Benefits Security Administration, 2014). If Burt's wife had a job with health insurance benefits, his change of employment status would have been a qualifying event and his family could consider this option. Since Burt's wife was not employed, this option was not available. Burt thought about looking at alternatives other than his existing third-party administrator health insurance, such as an individually contracted private plan, or the Health Insurance Marketplace. He knew his family's income would not qualify them for Medicaid. Although an unlikely choice, Burt could choose not to have health insurance and pay the fine come tax season.

It was the time of year when most basic deductibles that were required from the existing health insurance plan were already met. This was one factor that could encourage Burt to remain with his current insurer. If his family needed to use new insurance, they would be subject to additional deductibles. This would mean costs of services could be covered to a greater extent rather than starting anew with an independent or Health Insurance Marketplace plan. Burt's budget was tight, and he was concerned about paying the $1,486 per month for three months until his new employer's plan would cover his family (at 90 days).

Timeline for COBRA Notification

Burt decided to think about his situation and to read the United States Department of Labor documents about COBRA. He discovered some interesting facts about the timeline. There were differences in timing as related to COBRA notification (from the employer to the third-party health care administrator, as well as to the past employee), election, and payment of premiums.

The hospital benefits coordinator at the employer that Burt was leaving was known to be seemingly overwhelmed. Although employers are required by law to notify a third-party insurer about the end of an employment relationship, according to the United States Department of Labor, employers have 30 days in which to complete notification to the insurance company. For some, a gap of 30 days for notification can displace them from investigating other options, such as the Health Insurance Marketplace. According to a Society of Human Resource Management's contributing author, Miller (2014), employees and employers should 'Mind the Gap':

> Notice of COBRA rights (which will now explain Marketplace rules) is not provided for weeks and, sometimes, a couple months after the qualifying event. At that point, there is a gap between the loss of coverage and someone's actual choice of COBRA or Marketplace coverage (p. 1)

The lack of timely notification to the third-party insurer can create challenging health care situations for someone who is evaluating COBRA and alternatives. Some options allow an employee who has ended employment to apply for special enrollment. This eliminates the need for the person to wait for the next open enrollment. However, according to EBSA (2014), "You must request special enrollment within 30 days within the loss of your job-based coverage"

If Burt's hospital successfully notifies him of COBRA eligibility by day 30, the COBRA Game can begin. An employer has the duty to provide employees with health insurance benefits a copy of, or access to, a Summary Plan Description (SPD) which should be received within 90 days after a person becomes a participant in the plan (United States Department of Labor (a), 2015, p. 1). Burt did not remember receiving this information. If he had received the information upon employment, it could have been buried amid a multitude of new hire paperwork or employee benefits online links that were provided during orientation.

When a change in job status occurred, Burt became a qualified beneficiary of his hospital's third-party administrator and could elect to accept COBRA and continue his health care plan. However, the duty to report the change in employment status remains with the employer. When the third-party health insurance administrator receives such notification, they, in turn, have 14 days to notify the affected person.

> When the plan receives a notice of a qualifying event, it must give the qualified beneficiaries an election notice which describes their rights to continuation coverage and how to make an election. This notice must be provided within 14 days after the plan receives notice of the qualifying event. (United States Department of Labor (b), 2015, p. 1)

In theory, if the third-party administrator receives notice of Burt's change in employment on day 30, they still have 14 days to notify the employee. This could mean Burt's notification arrives on day 44.

Burt continued to read the United States Department of Labor FAQ's About COBRA Continuing Health Coverage and next found this:

> If you are entitled to elect COBRA coverage, you must be given an election period of at least 60 days (starting on the later of the date you are furnished the election notice or the date you would lose coverage) to choose whether or not to elect continuation coverage. (2015, p. 1)

This is an 'or' statement, and the key word is 'later'. Thus, Burt decided to choose the latter, which in his case was the date the third-party health insurance administrator furnished an election notice. This now takes Burt to 44 days + 60 days = 104 days before his election notification is due. If this scenario occurs, Burt surpasses the 90-day waiting period without actually needing to elect COBRA coverage or to pay premiums. Even if an employee follows the 'or' clause, this 60 days in essence could justify 60 of the 90-day waiting period before the new employer's health insurance plan would cover Burt and his family. Burt did feel uneasy about not having paid insurance during the 90-day gap; however, $1,486 x three months would be $4,458 from his family's financial resources.

COBRA Acceptance and Payment

For some, taking a chance that the employer would be slow to notify a third-party administrator of an employee's departure, coupled with the third-party administrator taking 14 days to notify the employee about eligibility for COBRA benefits may seem unlikely. However, as Burt continued to read the law and the FAQ interpretations from the United States Department of Labor, he found this statement regarding payment:

> When you elect continuation coverage, you cannot be required to send any payment with your election form. You can be required, however, to make an initial premium payment within 45 days after the date of your COBRA election. That is the date you mail in your election form, if you use first-class mail. (2015, p.1)

The FAQs from the United States Department of Labor regarding COBRA Continuation of Health Coverage left Burt feeling rather confident. He was doing the math and came to the conclusion he could wait out paying the $1,486 monthly premium because if something did happen to someone in his family, he could send the acceptance of COBRA election the same day and the needed health care insurance would be covered from that day forward.

Conclusion

Burt decided to wait out the system because, in general, his family was healthy. His wife needed a new vehicle, and he felt the $4,458 could be better spent toward this family purchase. One of the two pharmacy managers in Burt's MBA group seemed shocked by his decision. He felt as if Burt could be gambling with his family's health during a time of transition. The other pharmacy manager seemed interested in Burt's interpretation of the law, yet he was not at ease with the decision from an ethical point of view. He was thinking about whether this decision was ethically the best choice for Burt and his family. From an organizational perspective, he thought about the third-party administrator, and Burt's previous employer (who was self-insured and thus, paid claims). The human resource manager was impressed with Burt's level of research about notification, election, and payment of COBRA benefits. She did feel somewhat uneasy as to how the scenario could evolve, should Burt or his family find themselves facing a significant health challenge while Burt played *The COBRA Game.*

TEACHING NOTE: THE COBRA GAME

Summary

Business ethics has become an important component for external certification of higher education curricula and programs. This case profiles the decision-making of an MBA student as he makes choices regarding his family's health insurance coverage while moving from his original employer, a hospital, to a new health care clinic. The health care clinic's benefits administration team has chosen a 90-day waiting period for new employees before group health insurance would

be available to new employees. Cost concerns for the affected family are increased when the real cost of the family's health care monthly premium is realized. These concerns are further confounded by interpretation of the Consolidated Omnibus Budget Reconciliation Act (COBRA) guidelines for notification, acceptance, and premium payment. To compound the COBRA decision, the employee must also consider how the Affordable Care Act (2010) and the Health Insurance Marketplace may, or may not affect the family's transition with regards to retaining health insurance benefits during his transition.

Introduction of the Case

Starting the case can be accomplished in many ways. The key is to get students engaged in the discussion before requiring them to make a decision. A possible opening is to ask the students if any of them have ever lost or changed jobs. You might ask them about their experiences utilizing COBRA. You can build upon their answers by focusing on the tough personal nature of the event.

As an alternative, you can begin the case by talking about the specific nature of COBRA. You could build the discussion upon the technical nature of the law. The discussion could evolve from the technical nature of the law to the personal nature of someone using it. A discussion of the financial impact both on the company and the individual utilizing COBRA could be areas of discussion.

A third potential starting point for the case discussion is to ask the students to put themselves in Burt's position. Let the students discuss all of the elements that go into his decision to when or if to use COBRA.

Discussion Pastures

The COBRA Game case has several opportunities or pastures for discussion that include both human resource issues and ethical dilemmas. One discussion pasture involves the intricacies of the COBRA law. Human resource students would benefit particularly from understanding how and when the law applies and the amount of time necessary for notification. Although it may not be the most exciting topic for discussion, future HR professionals need to understand the law. It would also be beneficial for non-HR students to know their rights and responsibilities. It might be a good idea have a copy of the actual legislation available for student reference.

Another discussion pasture is whether or not Burt should have negotiated an earlier start to his insurance benefits at his new company. Burt is in a far better position to negotiate his benefits before he accepts the position rather than after. Students can discuss how to approach that negotiation and whether or not it should be a deciding factor in accepting employment.

A large discussion to graze is the decision of whether to go on Burt's wife's insurance plan, accept COBRA, or go without insurance until his new employer's insurance begins. It would be beneficial to look at the pros/cons of each choice. It would also be useful to ask the students to make a choice and vote. When the discussion is finished, ask the students if these choices have ethical implications. What are they? How do you decide which ethical framework wins out?

A great ethical discussion pasture is the gaming of notification of third-party administrators in starting the COBRA clock. If played correctly, Burt would benefit by not paying the 'full' share of his COBRA coverage. Is it ethically okay to do it? Should he feel some duty to his former employer? Was it ethical for him to risk his family remaining healthy and purchasing his wife a new car? Was it ethical for Burt to violate the Affordable Care Act for a short period? Should Burt have pushed for third-party administration notification when he knew it hadn't occurred?

Conclusion and Wrap-Up

Finishing the case could simply be the discussion on whether or not Burt made the 'right' decision. Was it ethical or just "business"? You could potentially role-play the conversation between Burt and his wife, Burt and his former employer, or Burt and his new employer. The discussion could also end on the failure of HR to monitor or administrate the COBRA program effectively. You could also bring the case to conclusion by asking for key take-aways or the big-picture lessons that were learned from the case.

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