

## **Insurance Assurance: Addressing Common Insurance Questions Related to HIV/AIDS**

*I elected COBRA when I left my last job. It seemed to be the best way to take care of costly health expenses related to my HIV/AIDS condition. I have since become disabled. What should I do?*

As you know, COBRA (Consolidated Omnibus Budget Reconciliation Act) is a federal law that helps you continue with your old health insurance for at least 18 months after you leave your job voluntarily, are laid off or you were fired. It only applies if your company had 20+ employees. Also, it doesn't cover you if you have been fired for gross misconduct. The downside to COBRA is that you may have to pay the full health insurance premium yourself. The premium for your COBRA can be no more than 102% of the old premium, but since your employer is no longer paying a portion of that premium, it can be very costly. Your employer is required by law to offer COBRA to all eligible employees. If he forgets to give you a COBRA application or inform you of available COBRA benefits, you may have grounds for a lawsuit. For the sake of having health insurance during that time, however, you would be smart to request a COBRA application when you leave your job.

The coverage you elect under COBRA must be identical to the coverage you had while working. This can be tricky depending upon the new needs associated with your disability. If you exhaust federal COBRA and you had less than 36 months of COBRA coverage, you may have the opportunity to continue coverage for up to a total of 36 months through a combination of COBRA and Cal-COBRA.

If you can't afford your COBRA premiums, as a disabled person, you may be eligible to have your COBRA premiums paid through CARE/HIPP (Comprehensive AIDS Resources Emergency/Health Insurance Premium Payment Program). The program pays health insurance premiums for up to 29 months-- ideally, until you transition to Medicare coverage. CARE/HIPP cannot be used to purchase a new health insurance policy. An eligible CARE/HIPP applicant must show:

- HIV positive test results
- Liquid assets not exceeding \$6,000
- Medi-Cal application has been filed and is being followed-through with
- Proof of appeal, either in process or denial of public benefits
- No prior denial for services specific to HIV

*I was told that my HIV+ status is a pre-existing condition that would not be covered when I change health plans. Does that mean that I will have to stay at my current job because I can't qualify for a future employer's insurance? Or, that I will never get another insurance policy again?*

No. A federal law called the Health Insurance Portability and Accountability Act (HIPAA) allows people with HIV/AIDS (or other medical conditions) to get new insurance at a new job. According to the law, you must have had health insurance for 12 consecutive months before getting new health insurance. Your new insurance policy must pay for any pre-existing condition, such as HIV/AIDS. Even if you didn't have health insurance for 12 consecutive months, HIPAA will still help. The number of months that you did have coverage can apply to the pre-existing condition limitation

period of your new policy. For example, if you had health insurance for 9 months at a previous employer and then switched jobs, those 9 months would be subtracted from your new insurer's pre-existing condition limitation period. You would now have to wait 3 months before the new insurer, instead of the full 12-month period, would cover you because you reduce the one-year exclusion period by 9 months. Given the expenses associated with HIV/AIDS condition, you should keep your previous employer's insurance through COBRA for any "gap" period.

The Health Insurance Portability and Accountability Act (HIPPA) will only help you if there are no "gaps" in your health insurance coverage of more than 63 days between your old coverage and your new coverage. You will also need to prove how many months you were covered by your old insurer. You can show that by obtaining a "certificate of credible coverage" from your old employer or the old insurer itself.

*If you fail to disclose your HIV status, on a health insurance application, you may be in for a surprise when the medical bills come due. A health insurer may not pay for medical services rendered for a preexisting condition that was not disclosed to that provider. Ultimately, you may be responsible for a very hefty medical bill and your insurer may cancel your health insurance.*

*When I completed my application for life insurance, I didn't disclose that I was HIV+. Can my insurance company cancel my policy?*

In this case, Mom was right, "Never tell a lie." Life insurance policies have a contestable period (many are two years) during which time the insurance company can dispute the information that you provided. If during that time, the insurance company discovers that the information you provided was inaccurate they may adjust or void the policy if that information was "material." Material means that had that information been disclosed, the insurance company would not have issued the policy or the policy would have a different rating (level of risk to insurance company) which would have been passed off to you in the form of a higher premium. Inaccurate information that you provide regarding your gender or age, for instance, may cause an adjustment or voiding of the policy at any time, even after your death.

*When I was diagnosed with HIV, my doctor suggested that I make some positive changes about my overall health. Consequently, I have given up smoking and lost weight. Can I now apply for a reduction in my insurance rates?*

If your insurance company issued your policy and included an extra premium because you were a smoker or were overweight, then you may want to ask your insurance company to lower your premiums because that condition no longer exists. Normally the insurance company will require that you have not smoked for 2 years prior to such a request. The insurance company may require that you keep off the pounds for 1 year prior to the request for a rate reduction and that the weight loss was not due to an illness. Generally your premiums will be reduced by that additional amount which your insurance company charged when they issued your policy.

If you have further questions regarding HIV/AIDS and your insurance, you can always call the AIDS Legal Referral Panel at 415-701-1100 to talk to an attorney who will help you understand your legal rights.