COBRA and HIPAA Self-Evaluation Checklist

To be completed by the executive within your organization who has overall responsibility for COBRA and HIPAA compliance

Executive's Name:_____Title:_____

Company:_____ ☐ Headquarters ☐ Other

Address:_____

City:_____ State:_____ Zip:_____ Phone:_____ Fax:_____

Completing this Self-Evaluation Checklist may be the most important step you can take in ensuring the viability of your COBRA and HIPAA compliance systems. Please answer the following questions as accurately as possible to receive a meaningful evaluation of your current COBRA and HIPAA compliance systems and possible areas of non-compliance liabilities.

Complete this form. If you discover compliance problems, call your contact at MWG Benefits, Inc. 800-800-1397

FOR EVALUATION USE

QUESTIONS

The following questions should be answered *as they apply to the type of COBRA administration system your organization uses*- whether it be your own internal system, your carrier, or an outside service:

1. Is your administrator formally trained in COBRA? ☐ Yes ☐ No

2. Does your administrator have liability insurance to cover and COBRA errors/omissions created by staff? ☐ Yes ☐ No

3. Does your administrator have a COBRA procedures manual which is strictly adhered to? ☐ Yes ☐ No

4. Does your COBRA procedures manual document all COBRA policies and procedures? ☐ Yes ☐ No

5. Were your COBRA policies and compliance materials developed with the aid of an ERISA attorney? ☐ Yes ☐ No

6. Does your system periodically undergo outside audit to ensure it is in compliance? ☐ Yes ☐ No

7. Does your administrator have an ERISA attorney immediately available to resolve questions/disputes? ☐ Yes ☐ No

8. Does your administrator insure that all staff involved are thoroughly trained in COBRA and ERISA? ☐ Yes ☐ No

9. Did you have a qualified attorney review and approve all of your forms to be sure that all the legally correct information is accurately, clearly communicated? ☐ Yes ☐ No

COBRA and HIPAA Self-Evaluation Checklist (page 2)

FOR EVALUATION USE	QUESTIONS
	10. Have you amended your forms to account for the numerous legislative changes and Federal court interpretations which have changed COBRA over the years? ☐ Yes ☐ No
	11. Does an ERISA attorney review your amended forms? ☐ Yes ☐ No
	12. Do you provide written notification of COBRA rights to each newly covered employee? ☐ Yes ☐ No
	13. Do you provide written notification of COBRA rights to each covered spouse, as well? ☐ Yes ☐ No
	14. Is this notice mailed to the last known home address of the employee and of the spouse, if their address is different? ☐ Yes ☐ No
	15. Do you retain proof of such mailings? ☐ Yes ☐ No
	16. Have you provided written notification of COBRA rights to all *currently covered* employees/spouses? ☐ Yes ☐ No
	17. Were these notices mailed to the last known home address of the employee/spouse? ☐ Yes ☐ No
	18. Did you retain proof of such mailings? ☐ Yes ☐ No
	19. Do you have a system in place to ensure that you are aware of all Qualifying Events (including those at other branches or locations) so that each Qualified Beneficiary is properly notified? ☐ Yes ☐ No
	20. Do you regularly inquire about possible status changes (i.e. coverage under another plan, Medicare entitlement, etc.) that may affect COBRA eligibility? ☐ Yes ☐ No
	21. Do you send all Qualifying Event notices within fourteen days of the Qualifying Event? ☐ Yes ☐ No
	22. Do you send them First-Class Mail to the last known home address of the employee? ☐ Yes ☐ No
	23. Are notifications addressed to spouse, too, at their last known home address (if different)? ☐ Yes ☐ No
	24. Do you offer each Qualified Beneficiary all of the coverages that are COBRA-eligible, including vision, FSA's and EAP's? ☐ Yes ☐ No
	25. To resolve quickly and easily any potential disputes, do you use some form of proof-of-mailing when sending the notices? ☐ Yes ☐ No
	26. Does your administrator have a consistent method of dealing with unclaimed/refused notices? ☐ Yes ☐ No

COBRA and HIPAA Self-Evaluation Checklist (page 3)

FOR EVALUATION USE

QUESTIONS

27. Do you adjudicate timely election based upon the postmark on the envelope? ☐ Yes ☐ No

28. Do you allow independent elections among Qualified Beneficiaries if they each request such? ☐ Yes ☐ No

29. Do you provide a forty-five day grace period to pay the initial premium? ☐ Yes ☐ No

30. Do you use the envelope's postmark to adjudicate timely payment? ☐ Yes ☐ No

31. Do you bill COBRA continuants? ☐ Yes ☐ No

32. Do you allow a minimum thirty-day grace period to pay premiums? ☐ Yes ☐ No

33. Do you return partial payments (i.e. payments for less than the full COBRA premium.)? ☐ Yes ☐ No

34. If you have previously allowed someone to pay their premium beyond the grace period, do you also allow all others who haven't paid on time to retroactively elect coverage? ☐ Yes ☐ No

35. Do you administer exceptions to COBRA practices on a non-discriminatory basis? ☐ Yes ☐ No

36. Do you communicate these exceptions in writing to all plan participants, as ERISA requires? ☐ Yes ☐ No

37. Do you retain copies of all correspondence in archive to defend against future noncompliance claims? ☐ Yes ☐ No

38. Do you have a system to immediately update you on legislative changes or new interpretations of COBRA which result from federal court litigation? ☐ Yes ☐ No

39. Is the person designated by your administrator to answer COBRA questions fully aware of all legislative mandates, court decisions and legal liabilities associated with COBRA ? ☐ Yes ☐ No

40. Does your administrator provide COBRA participants timely and accurate assistance when needed? ☐ Yes ☐ No

41. Does your administrator have a formal review process for dealing with COBRA disputes? ☐ Yes ☐ No

42. Is your staff trained to answer attorney's questions challenging your position, and to provide accurate telephone assistance to Qualified Beneficiaries? ☐ Yes ☐ No

43. Are you sure that all COBRA notices, SPDs, letters and forms used are properly worded (in keeping with DOL and COBRA regulations), and UPDATED constantly to convey current COBRA requirements and rights?

COBRA and HIPAA Self-Evaluation Checklist (page 4)

FOR EVALUATION USE

QUESTIONS

44. Does your administrator document all notices and dates for use in adjudicating COBRA eligibility, and for resolving disputes when coverage is declined or cancelled? ☐ Yes ☐ No

45. Do your administrator's Qualifying Event notices properly and completely explain all COBRA rights, plan choices, rates and compliance deadlines? ☐ Yes ☐ No

46. Does your administrator treat ALL Qualified Beneficiaries under EXACTLY the same rules and standards at all times? ☐ Yes ☐ No

If Yes, can your system prove it with complete historical data? ☐ Yes ☐ No

47. Does your administrator administer the Social Security Disability extension? ☐ Yes ☐ No

48. Does your administrator have a formal process for handling bad checks received from participants? ☐ Yes ☐ No

49. Can you say that you've never extended the COBRA election or payment due date for any employee? ☐ Yes ☐ No

50. If you use a carrier or TPA to administer COBRA, fully or partially, do they contractually accept the liability for their actions or inactions? ☐ Yes ☐ No

See next page for HIPAA compliance audit questions

COBRA and HIPAA Self-Evaluation Checklist (page 5)

FOR EVALUATION USE

QUESTIONS

THE FOLLOWING QUESTIONS PERTAIN TO YOUR HIPAA COMPLIANCE ADMINISTRATION

51. Did you send a notice to all COBRA continuants prior to November 1, 1996, advising them of changes in COBRA, as mandated by HIPAA?
☐ Yes ☐ No

52. Have you changed the language on all of your COBRA forms to reflect the changes brought about by HIPAA
☐ Yes ☐ No

53. Have you send retroactive Certificates of Creditable Coverage to all individuals who lost coverage under your plan between October 1, 1996 and June 1, 1997? ☐ Yes ☐ No

54. Are you sending HIPAA Certificates of Creditable Coverage via First-Class Mail to all individuals who lose coverage under your plan?
☐ Yes ☐ No

Have you been doing so since June 1, 1997? ☐ Yes ☐ No

55. Do you send duplicate Certificates of Creditable Coverage upon request for the 24 months following the initial loss of coverage? ☐ Yes ☐ No

56. Are you currently capturing full details (name, social security number, medical coverage details, etc.) on all employees and dependents covered under your plan? ☐ Yes ☐ No

57. Are you monitoring changes in HIPAA regulations on a regular basis so you can modify your certification procedures accordingly? ☐ Yes ☐ No

58. Do you have a person on staff who is knowledgeable about HIPAA and who can provide consistent, accurate answers to HIPAA questions?
☐ Yes ☐ No

If you answered "no" to any of these questions, you may risk noncompliance.