

Employers Can Trust Address Provided by Employees

For employers, mailing COBRA notices by first-class mail to a former employee's last known address is acceptable, Illinois federal court rules.

Reported by [NOAH ZUSS](#)

For employers, the order of a federal court in Illinois is important information to incorporate to the continuing operation of health care coverage.

In [Anaya v. Birck et al](#), the U.S. District Court for the Northern District of Illinois last month ruled that an employer fulfilled its Continuation of Health Coverage notification requirements even though it did not deliver a terminated employee's COBRA election notice to his latest address.

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"As the court indicated, the applicable standard is not whether the employee actually received the notice, but rather whether the employer undertook good-faith efforts to notify the terminated employee," said Marcia Wagner, founder and managing partner at The Wagner Law Group.

For employers, sending notices by first class mail addressed to the former employee's last known address is an acceptable method of notification, the court ruled.

Noting previous rulings, the court explained "the issue is not whether the former employee actually received notice; the issue is whether the plan administrator caused the notice to be sent in a good faith manner reasonably calculated to reach the former employee."

Under the Consolidated Omnibus Budget Reconciliation Act of 1985 employers must notify employees of their right to continue health care coverage following termination of employment.

"Good faith is not a precise legal standard, and the district court's holding on these circumstances appears to be reasonable," added Wagner.

The Wagner Law Group, [explained the ruling](#) by Judge LaShonda A. Hunt, following the court's May 16 memorandum opinion and order in a Health and Welfare Law Alert posed online. The Wagner Law Group specializes in the practice of employee benefits law.

To support his argument, Anaya argued that, despite the address on file the employer should have known the notice was sent to his old address because the employer's CEO had been to the employee's new home.

The court disagreed.

"While there were actions that the CEO of the employer could have taken which would have resulted in the separated employee receiving the COBRA notice, the court concluded that such actions would have exceeded the good faith standard," added Wagner.

Continuation of health coverage under [COBRA is outlined](#) online by the Department of Labor.

The law generally requires group health plans sponsored by employers with 20 or more employees in the prior year to offer employees and their families the opportunity for a temporary extension of health coverage in certain instances where coverage under the plan would otherwise end, explained the Department of Labor, in an online post.

“The case had an interesting fact pattern, but I do not believe that it established any new law,” noted Wagner. The complaint was filed in August 2021.

Plaintiff Jesse Anaya is represented by attorney Fitzgerald Timothy Bramwell with the law office of Fitzgerald Bramwell. The defendants are represented by attorneys with the law offices of Litchfield Cavo, Wilson Elser Moskowitz Edelman & Dicker LLP, Littler Mendelson, Emma Fairweather, The Employment Law Group PC; Kearney Wood Kilens; and Lewis Brisbois Bisgaard & Smith LLC.

“We are pleased [with the ruling],” said Bramwell, in response to a request for comment.

The counsel for the defendants did not respond to a request for comment.

Tags

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