



BlueCross BlueShield of Western New York
257 West Genesee Street • Buffalo, New York 14202

Federal COBRA and NYS Continuation of Coverage Premium Billing Agreement Form

Please complete this form and return the completed copy to your Account Executive or your Account Management Associate at BlueCross BlueShield of Western New York, 257 West Genesee Street, Buffalo, New York 14202.

Group Name: _____
(Referred to in this agreement as "Group")

Group Number: _____ **Phone:** _____

Group Benefits Administrator Name: _____

For Federal COBRA and New York State Continuation of Coverage (mini-COBRA) billing, **please place a check mark in the sections provided immediately below:**

Group is electing to have BlueCross BlueShield of Western New York ("BlueCross BlueShield") directly bill individuals that Group identifies to BlueCross BlueShield as subscribers in Group's COBRA/mini-COBRA coverage.
(NOTE: Page 2 of this form must be completed upon selecting this option).

Effective Date: _____

Authorized by: _____
(Authorized Group Representative Signature)

Print Name: _____

Title: _____

If Group is exempt from Federal COBRA provisions, please explain:

If Group is exempt from NYS mini-COBRA provisions, please explain:

- over, please -

This Federal COBRA and NYS Continuation of Coverage Premium Billing Agreement (“**Agreement**”) is entered into as of the ____ day of ____ 20____ (“**Effective Date**”) by and between BlueCross BlueShield of Western New York¹, (“**BlueCross BlueShield**”) and (“**Employer**”).

(Employer name)

(Principal office location)

In consideration of the terms and conditions hereof and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Employer and BlueCross BlueShield hereby agree as follows:

1. Group represents and warrants to BlueCross BlueShield that it is subject to either “COBRA” or “mini-COBRA” (as such terms are defined below).
2. Employer expressly acknowledges and agrees that it has and shall retain any and all responsibility and liability for compliance with all terms and conditions of the federal Consolidated Omnibus Budget Reconciliation Act (“**COBRA**”) or New York State continuation coverage pursuant to the New York Insurance law and regulations (“**mini-COBRA**”), as applicable to Employer and Employer’s group health plan, including, but not limited to, any and all notice requirements and election procedures under COBRA/mini-COBRA (as applicable) and for determining who is eligible for COBRA/mini-COBRA under the terms of its group health plan. The Employer shall notify BlueCross BlueShield in writing of its commencement, termination and other terms and conditions of coverage for each eligible individual, and BlueCross BlueShield shall be entitled to rely upon such Employer instructions.
3. On behalf of the Employer, BlueCross BlueShield will, on a monthly basis, bill and collect premiums from those employees and other beneficiaries of the Employer’s group health plan, who Employer identifies to BlueCross BlueShield in writing as qualifying for and electing to purchase COBRA or mini-COBRA. Benefits and premiums will be comparable to group health plan offerings that are otherwise applicable under Employer’s group health plan. BlueCross BlueShield will add to each DBC bill an administrative charge for its billing service that is equal to two percent (2%) of the applicable premium. The Employer

¹ BlueCross BlueShield of Western New York is an assumed name of HealthNow New York Inc., an independent licensee of the Blue Cross and Blue Shield Association.

authorizes BlueCross BlueShield to retain the two percent (2%) administration fee as payment in full for its direct bill cobra (“DBC”) billing services under this Agreement.

4. The Employer and BlueCross BlueShield expressly acknowledge and agree that the only aspect of COBRA/min-COBRA that BlueCross BlueShield is agreeing to address on behalf of the Employer is to bill and collect premiums on behalf of Employer in accordance with Employer’s instructions for each individual who the Employer identifies in writing to BlueCross BlueShield as an eligible participant in Employer’s COBRA/mini-COBRA coverage. The Employer will define in writing the applicable eligibility period for each eligible individual. BlueCross BlueShield is not assuming any other responsibility and/or liability whatsoever for any of the Employer’s obligations pursuant to COBRA/min-COBRA.
5. **Indemnification.** Employer hereby expressly agrees to indemnify and hold harmless BlueCross BlueShield, together with its affiliates and its/their respective officers, directors, employees, consultants, agents and other representatives from and against any and all claims, causes of action, actions, proceedings, liabilities, costs, expenses, fines, or damages of any kind (including reasonable attorneys fees and expenses) that arise as a result of or in connection with the Employer’s actions and/or omissions relative to the performance of this Agreement, including, but not limited to, any failure to comply with COBRA and/or mini-COBRA. Employer’s obligation to indemnify BlueCross BlueShield shall survive any cancellation, termination, expiration or other conclusion of this agreement.
6. **Termination.** Any party may terminate this agreement by giving sixty (60) days written notice to the other.
7. **Assignment.** Employer shall not assign this Agreement without the prior written consent of BlueCross BlueShield. BlueCross BlueShield may assign this Agreement to an affiliate and/or any entity controlling, controlled by or under common control with BlueCross BlueShield upon written notice to Employer.
8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to any conflicts of laws provisions. Each of the Parties hereby agrees to submit to the jurisdiction of the Federal District Court for the Western District of New York and New York State courts located in Erie County, New York with respect to any claim or cause of action arising under or relating to this Agreement, and waives any objection to the venue or inconvenience of said courts.
9. **Severability.** It is the desire and intent of the Parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement may be sought. Accordingly, if any particular provision of this Agreement shall be adjudicated to be invalid or unenforceable, such

provision shall be deemed amended to delete therefrom the portion thus adjudicated to be invalid or unenforceable, such deletion to apply only with respect to the operation of such provision in the particular jurisdiction in which such adjudication is made.

- 10. **Waiver.** No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or remedy.
- 11. **Notices.** Any notice permitted or required to be given by the terms of this Agreement shall be in writing and shall be deemed to be sufficiently given only if delivered personally, sent by a nationally recognized overnight carrier or mailed by certified mail, return receipt requested, to the Party's address provided in this Section 11 of this Agreement. Any party may, by written notice given in conformity with this section, designate a different address or addresses to which such notices shall be sent. Notices given in conformity with this section shall be deemed to have been given, if delivered personally, upon delivery thereof, on the delivery date in the case of overnight mail service or on the date indicated on the return receipt in the case of certified mail. Mailing addresses for notices to each Party as of the Effective Date shall be as follows:

If to Employer:

To the address set forth in the first paragraph of this Agreement unless another address is set forth immediately below in this Section 11:

If to BlueCross BlueShield of Western New York:

BlueCross BlueShield of Western New York
257 West Genesee Street
Buffalo, New York 14202-2657
Attention Attn: Sales Department, Commercial Accounts

with a copy to:

BlueCross BlueShield of Western New York
257 West Genesee Street
Buffalo, New York 14202-2657
Attention: General Counsel

12. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes any prior or contemporaneous oral or written representations with regard to the subject matter hereof. Paragraph headings set forth herein are provided for convenience of reference only and shall provide no substantive content to this Agreement. Each of the Parties hereby acknowledges and agrees that by virtue of execution of this Agreement, neither party shall be under any legal obligation of any kind whatsoever except with respect to matters expressly set forth herein. This Agreement may not be modified except by a writing signed by authorized representatives of both Employer and BlueCross BlueShield.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and together which shall constitute one and the same instrument.

IN WITNESS WHEREOF, duly authorized representatives of each of Employer and BlueCross BlueShield hereby execute this Agreement to be effective as of the Effective Date.

BlueCross BlueShield Signature

Employer Signature

Date

Date