

### **Crawford v. Pennsylvania Employee Benefit Trust Fund**

(United States District Court for the Eastern District of Pennsylvania, 18 EBC 1392 (E.D Pa. 1994))

In January 1992, John Crawford filled out a State Employees/Retirees Enrollment/Change Form, advising his employer that he had divorced his wife Anne in April 1991. Upon learning of the divorce, Pennsylvania Employee Benefit Trust Fund (PEBTF), the employer's plan administrator, canceled Anne Crawford's health insurance retroactive to April 1991. Anne had been receiving free employer-paid medical coverage from the divorce date until PEBTF's action. Anne Crawford filed suit, alleging that prior to the termination of her health insurance coverage, she was never given notice of her continuation rights and never received a COBRA election form.

In its defense arguments, PEBTF alleged Crawford had received her General Notification of COBRA rights in a mass mailing in 1986, and again in 1987, when John Crawford's employer reissued its benefit booklet that contained a section on COBRA. PEBTF also maintained that Anne Crawford was not entitled to COBRA coverage because she had not reported the Qualifying Event, her divorce, within the 60 day time frame allowed under the law.

The court indicated its responsibility was to determine whether:

1. A General Notice was sent
2. If one was NOT sent, whether the notification requirement of the Qualified Beneficiary was negated

As to the first, PEBTF argued that the predecessor plan administrator, Capital Blue Cross, gave Crawford her General Notification in 1986. A supervisor at Capital Blue Cross gave testimony that the mailing was done. She conceded that she couldn't produce a copy of it because records were destroyed after seven years. By the time of this action, the seven years had passed. The court ruled PEBTF could not carry its burden of proving a mailing was sent through generic testimony like that of the supervisor's.

The second issue is not addressed by the statute, the court noted. Instead, the court used House Reports from 1985 and 1989 to determine Congressional intent. Based on those reports, the court ruled that in order for a Qualified Beneficiary to have any responsibility to notify the employer of divorce within the prescribed 60 day time limit, an General Notification had to have been provided to them.

PEBTF also argued that it sent a letter to John Crawford before his divorce became final, outlining what he needed to do when it was final. The letter suggested that, if he filled out a particular form, PEBTF would send his ex-wife a COBRA election notice. The court ruled that the language of the letter would not have sufficed as a Qualifying Event notice to Anne. The letter indicated what John, the employee, needed to do, not what Anne, the ex-spouse, needed to do. The court then denied PEBTF's motion for summary judgment in its favor.

This case was decided before the effective date of DOL's Final Regulations, which now make it clear that a Qualified Beneficiary's notice obligations and time frames are contingent on first receiving notice of the obligation from the plan administrator.