

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ERICA SILBERSTEIN, individually
and on behalf of all others
similarly situated,

Plaintiff,

v.

Case No.:

PETSMART, INC.,
A Foreign Profit Corporation,

Defendant.

CLASS ACTION COMPLAINT

Plaintiff, Erica Silberstein (“Plaintiff”), brings this Class Action Complaint against Defendant, PetSmart, Inc. (“Defendant”), alleging that Defendant failed to provide she and the putative class adequate notice of their right to continued health care coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”).

1. Defendant, the plan sponsor of the Petsmart Smartchoices Benefit Plan (“Plan”), has repeatedly violated ERISA by failing to provide participants and beneficiaries in the Plan with adequate notice, as prescribed by COBRA, of their right to continue their health insurance coverage following an occurrence of a “qualifying event” as defined by the statute.

2. Defendant’s COBRA notice, attached as Exhibit “A,” violates 29 C.F.R. § 2590.606–4(b)(4)(viii) because it fails to include a termination date for COBRA coverage if elected. Additionally, Defendant’s COBRA notice violates 29 C.F.R. § 2590.606–4(b)(4)(xii) because it fails to include an address indicating where COBRA payments should be mailed. The notice also violates COBRA because it fails to sufficiently identify the Plan Administrator.

3. Defendant violated the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended by the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), by failing to provide Plaintiff with a COBRA notice that complies with the law. Despite having access to the Department of Labor’s Model COBRA form, Defendant chose not to use the model form—presumably to save Defendant money by discouraging plan participants from enrolling in COBRA.¹

4. Defendant’s deficient COBRA notices both confused and misled Plaintiff. It also caused Plaintiff economic injuries in the form of lost health insurance and unpaid medical bills, as well as informational injuries. Because Defendant’s COBRA notice omits several critical information items, it collectively violates 29 C.F.R. § 2590.606–4(b)(4), which requires the plan administrator of a group-health plan to provide a COBRA notice “written in a manner calculated to be understood by the average plan participant.” Without information on *when* COBRA coverage ends, *where* to send payments, and *who* is the Plan Administrator, the notice is not written in a manner calculated to be understood by the average plan participant.

5. As a result of these violations, which threaten Class Members’ ability to maintain their health coverage, Plaintiff seeks statutory penalties, injunctive relief, attorneys’ fees, costs and expenses, and other appropriate relief as set forth herein and provided by law.

JURISDICTION AND VENUE

6. Venue is proper in the United States Court for the Middle District of Florida, because the events giving rise to these claims arose in this district.

¹ “Employers also express concerns about costs.... average claim costs for COBRA beneficiaries exceeded the average claim for an active employee by 53%. The average annual health insurance cost per active employee was \$7,190.00, and the COBRA cost was \$10,988.14 The Spencer & Associates analysts contend that this indicates that the COBRA population is sicker than active-covered employees and that the 2% administrative fee allowed in the law is insufficient to offset the difference in actual claims costs.” *Health Insurance Continuation Coverage Under COBRA*, Congressional Research Service, Janet Kinzer, July 11, 2013.

7. Plaintiff is a Florida resident, resides in this district and was a participant in the Plan prior to her termination, a qualifying event within the meaning of 29 U.S.C. § 1163(2).

8. Defendant is a foreign corporation with its headquarters in Phoenix, Arizona, and employed more than 20 employees who were members of the Plan in each year from 2012 to 2018. Defendant is the Plan sponsor within the meaning of 29 U.S.C. §1002(16)(B), and the administrator of the Plan within the meaning of 29 U.S.C. § 1002(16)(A). The Plan provides medical benefits to employees and their beneficiaries, and is an employee welfare benefit plan within the meaning of 29 U.S.C. § 1002(1) and a group health plan within the meaning of 29 U.S.C. § 1167(1).

FACTUAL ALLEGATIONS

COBRA Notice Requirements

9. The COBRA amendments to ERISA included certain provisions relating to continuation of health coverage upon termination of employment or another “qualifying event” as defined by the statute.

10. Among other things, COBRA requires the plan sponsor of each group health plan normally employing more than 20 employees on a typical business day during the preceding year to provide “each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event ... to elect, within the election period, continuation coverage under the plan.” 29 U.S.C. § 1161. (Emphasis added).

11. Notice is of enormous importance. The COBRA notification requirement exists because employees are not presumed to know they have a federally protected right to continue healthcare coverage subsequent to a qualifying event.

12. COBRA further requires the administrator of such a group health plan to provide

notice to any qualified beneficiary of their continuation of coverage rights under COBRA upon the occurrence of a qualifying event. 29 U.S.C. § 1166(a)(4). This notice must be “[i]n accordance with the regulations prescribed by the Secretary” of Labor. 29 U.S.C. § 1166(a).

13. The relevant regulations prescribed by the Secretary of Labor concerning notice of continuation of coverage rights are set forth in 29 C.F.R. § 2590.606-4 as follows:

(4) The notice required by this paragraph (b) shall be written in a manner calculated to be understood by the average plan participant and shall contain the following information:

(i) The name of the plan under which continuation coverage is available; and the name, address and telephone number of the party responsible under the plan for the administration of continuation coverage benefits;

(ii) Identification of the qualifying event;

(iii) Identification, by status or name, of the qualified beneficiaries who are recognized by the plan as being entitled to elect continuation coverage with respect to the qualifying event, and the date on which coverage under the plan will terminate (or has terminated) unless continuation coverage is elected;

(iv) A statement that each individual who is a qualified beneficiary with respect to the qualifying event has an independent right to elect continuation coverage, that a covered employee or a qualified beneficiary who is the spouse of the covered employee (or was the spouse of the covered employee on the day before the qualifying event occurred) may elect continuation coverage on behalf of all other qualified beneficiaries with respect to the qualifying event, and that a parent or legal guardian may elect continuation coverage on behalf of a minor child;

(v) An explanation of the plan's procedures for electing continuation coverage, including an explanation of the time period during which the election must be made, and the date by which the election must be made;

(vi) An explanation of the consequences of failing to elect or waiving continuation coverage, including an explanation that a qualified beneficiary's decision whether to elect continuation coverage will affect the future rights of qualified beneficiaries to portability of group health coverage, guaranteed access to

individual health coverage, and special enrollment under part 7 of title I of the Act, with a reference to where a qualified beneficiary may obtain additional information about such rights; and a description of the plan's procedures for revoking a waiver of the right to continuation coverage before the date by which the election must be made;

(vii) A description of the continuation coverage that will be made available under the plan, if elected, including the date on which such coverage will commence, either by providing a description of the coverage or by reference to the plan's summary plan description;

(viii) An explanation of the maximum period for which continuation coverage will be available under the plan, if elected; an explanation of the continuation coverage termination date; and an explanation of any events that might cause continuation coverage to be terminated earlier than the end of the maximum period;

(ix) A description of the circumstances (if any) under which the maximum period of continuation coverage may be extended due either to the occurrence of a second qualifying event or a determination by the Social Security Administration, under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq. or 1381 et seq.) (SSA), that the qualified beneficiary is disabled, and the length of any such extension;

(x) In the case of a notice that offers continuation coverage with a maximum duration of less than 36 months, a description of the plan's requirements regarding the responsibility of qualified beneficiaries to provide notice of a second qualifying event and notice of a disability determination under the SSA, along with a description of the plan's procedures for providing such notices, including the times within which such notices must be provided and the consequences of failing to provide such notices. The notice shall also explain the responsibility of qualified beneficiaries to provide notice that a disabled qualified beneficiary has subsequently been determined to no longer be disabled;

(xi) A description of the amount, if any, that each qualified beneficiary will be required to pay for continuation coverage;

(xii) A description of the due dates for payments, the qualified beneficiaries' right to pay on a monthly basis, the grace periods for payment, the address to which payments should be sent, and the

consequences of delayed payment and non-payment;

(xiii) An explanation of the importance of keeping the administrator informed of the current addresses of all participants or beneficiaries under the plan who are or may become qualified beneficiaries; and

(xiv) A statement that the notice does not fully describe continuation coverage or other rights under the plan, and that more complete information regarding such rights is available in the plan's summary plan description or from the plan administrator.

14. To facilitate compliance with these notice obligations, the United States Department of Labor (“DOL”) has issued a Model COBRA Continuation Coverage Election Notice (“Model Notice”), which is included in the Appendix to 29 C.F.R. § 2590.606-4. A copy of this Model Notice is attached hereto as Exhibit “B.” The DOL website states that the DOL “will consider use of the model election notice, appropriately completed, good faith compliance with the election notice content requirements of COBRA.”

15. In the event that a plan administrator declines to use the Model Notice and fails to meet the notice requirements of 29 U.S.C. § 1166 and 29 C.F.R. § 2590.606-4, the administrator is subject to statutory penalties of up to \$110.00 per participant or beneficiary per day from the date of such failure. 29 U.S.C. § 1132(c)(1). Additionally, the Court may order such other relief as it deems proper, including but not limited to injunctive relief pursuant to 29 U.S.C. § 1132(a)(3) and payment of attorneys’ fees and expenses pursuant to 29 U.S.C. § 1132(g)(1). Such is the case here.

16. Here, Defendant failed to use the Model Notice and failed to meet the notice requirements of 29 U.S.C. § 1166 and 29 C.F.R. § 2590.606-4, as set forth below.

Defendant’s Notice Is Inadequate and Fails to Comply with COBRA

17. Defendant did not use the Model Notice to notify plan participants of their right to

continuation coverage.

18. Rather than use the Model Notice, Defendant deliberately authored and disseminated a notice which omitted critical information required by law. The information Defendant omitted from its notice is information that is included in the Model Notice.

19. The evidence will show Defendant used its [deficient] Notice (See Exhibit A – Notice) to discourage participants from enrolling in continuation coverage.

20. Defendant's Notice violates several key COBRA requirements, specifically:

- a. The Notice violates 29 C.F.R. § 2590.606-4(b)(4)(viii) because it fails to provide an explanation of the continuation coverage termination date;
- b. The Notice violates 29 C.F.R. § 2590.606-4(b)(4)(xii) because it fails to provide the address to which payments should be sent;
- c. The Notice violates 29 C.F.R. § 2590.606-4(b)(4)(i) because it fails to provide the name, address and telephone number of the party responsible under the plan for administration of continuation coverage benefits; and, finally,
- d. The Notice violates 29 C.F.R. § 2590.606-4(b)(4) because Defendant has failed to provide a notice written in a manner calculated to be understood by the average plan participant.

21. The evidence will show Defendant's standard practice during the time period at issue in this lawsuit was to send the COBRA election notice attached as Exhibit A first, then send additional COBRA election information only to those that elected COBRA coverage (instead of to all individuals eligible for COBRA). This second document contained the information omitted from the initial notice.

22. Defendant's COBRA Notice confused Plaintiff, and resulted in her inability to make an informed decision as to electing COBRA continuation coverage.

23. As a result of the deficient notice, Plaintiff did not elect COBRA continuation coverage.

24. Defendant's deficient COBRA Notice caused Plaintiff an informational injury when Defendant failed to provide her with information to which she was entitled to by statute, namely a compliant COBRA election notice containing all information required by 29 C.F.R. § 2590.606-4(b)(4) and 29 U.S.C. § 1166(a). Through ERISA and then COBRA, Congress created a right—the right to receive the required COBRA election notice—and an injury—not receiving a proper election notice with information required by 29 C.F.R. § 2590.606-4(b)(4) and 29 U.S.C. § 1166(a). Defendant injured Plaintiff and the class members she represents by failing to provide the information required by COBRA.

25. Besides the informational injury suffered, Plaintiff also suffered a tangible injury in the form of economic loss, specifically the loss of health insurance coverage for herself and her dependents. Insurance coverage is an employer subsidized benefit of employment of monetary value, the loss of which is a tangible injury.

26. Plaintiff also suffered a tangible economic loss, as she paid out of pocket for medical expenses incurred by herself and her dependents up until the time Plaintiff was able to obtain health insurance through a subsequent employer.

Plaintiff Erica Silberstein

27. Plaintiff was employed by Defendant for nearly four years, during which time she obtained medical insurance for herself and dependents through Defendant's group health plan.

28. On or around October 9, 2018 Plaintiff's employment was terminated. Plaintiff was not terminated for "gross misconduct" and was therefore eligible for continuation coverage.

29. Plaintiff's termination was a qualifying event (termination of employment), which triggered Defendant's COBRA obligations.

30. On or around October 16, 2018, Defendant mailed Plaintiff the [deficient]

COBRA notice (See Exhibit A – Notice).

31. The COBRA notice was not written in a manner calculated to be understood by the average plan participant.

32. The COBRA notice did not provide Plaintiff with the substantive information to which she was entitled pursuant to federal law.

33. The COBRA notice violated 29 C.F.R. § 2590.606-4(b)(4)(viii) because it failed to provide an explanation of the continuation coverage termination date, omitting it entirely. Thus, it was nearly impossible for Plaintiff or any other plan participant to calculate the coverage termination date.

34. The COBRA notice violated 29 C.F.R. § 2590.606-4(b)(4)(xii) because it did not provide the address to which payments should be sent. Here, Plaintiff did not know where she was required to send COBRA payments.

35. The COBRA notice violated 29 C.F.R. § 2590.606-4(b)(4)(xii) because it failed to include information about how participants can lose COBRA coverage before the [omitted] termination date. For example, a participant can lose coverage if they become eligible under another group health plan, become Medicare eligible or do not make timely payments.

36. Plaintiff was not required to exhaust any administrative remedies through Defendant prior to bringing suit because no such administrative remedies exist. Even if she did, any attempts to exhaust the administrative remedies would have been futile.

***Violation of 29 C.F.R. § 2590.606-4(b)(4)(viii)
Failure to provide an explanation of the continuation coverage termination date***

37. The governing statute requires Defendant to provide a COBRA election notice that discloses “an explanation of the maximum period for which continuation coverage will be available under the plan” and “an explanation of the continuation coverage termination date.” 29

C.F.R. § 2590.606-4(b)(4)(viii).

38. This information not only informs Plaintiff of the length of coverage, if elected, but also the specific date on which such coverage will terminate. This information is very important for deciding whether to elect coverage.

39. Continuation coverage is not designed to be permanent. Traditionally, continuation coverage is used as a temporary solution until a qualifying participant obtains new coverage under a different group health plan. Thus, election notices must be sufficient to permit the discharged employee to make an informed decision whether to elect coverage.

40. Plaintiff cannot truly make an informed decision regarding continuation coverage without knowing the specific date when coverage will end and when they will be uninsured.

41. Here Plaintiff was only provided with the length of continuation coverage, but was never notified *when* the coverage, if elected, would terminate.

42. Even if Plaintiff had tried to use a calendar to determine the termination date, using an 18-month window, she would not be able to determine whether this monthly coverage would terminate at the beginning of the 18th month, the end of the 18th month or 18 months to the day of eligibility. This omission by Defendant both confused and misled Plaintiff.

43. The statute requires these disclosures specifically to avoid this type of confusion surrounding a matter as important as electing health insurance. Furthermore, a fiduciary breaches its duties by materially misleading plan participants, regardless of whether the fiduciary's statements or omissions were made negligently or intentionally. Without the required disclosures, Defendant's notice does not permit Plaintiff to make an informed decision and is therefore deficient.

***Violation of 29 C.F.R. § 2590.606-4(b)(4)(xii)
Failure to provide the address to which payments should be sent***

44. Defendant is specifically required to include in its notice the address to which payments should be sent. 29 C.F.R. § 2590.606-4(b)(4)(xii).

45. The notice provided to Plaintiff states “If you choose to elect COBRA coverage, you do not have to send any premium payment(s) with the COBRA Coverage Election Form. Additional information about payment will be provided to you after you make your election.”

46. The notice also states that “You must make your initial payment for COBRA coverage no later than 45 days after the date of your election.” Regarding all subsequent payments the notice states “Under the Plan, each of these periodic payments for COBRA coverage is due on the first day of the month for that coverage period.”

47. The COBRA notice did not contain information regarding *where* either payment should be sent. Because the notice did not contain this information, Plaintiff was deprived of the full breadth of information to which she was entitled, and could not determine from the notice, how to properly enroll and maintain continuation coverage.

48. The Code of Federal Regulations clearly set forth the specific information every COBRA notice must contain.

49. A misrepresentation is material if there is a substantial likelihood that it would mislead a reasonable employee in making an adequately informed decision. The COBRA notice Plaintiff received was misleading because it did not give Plaintiff the information necessary for her to enroll in COBRA.

50. Defendant’s election notice omitted information to which Plaintiff was entitled. By omitting this important information, Defendant misled Plaintiff about eligibility and payment requirements for continuing coverage.

Violation of 29 C.F.R. § 2590.606-4(b)(4)(i)
Failure to Identify Plan Administrator

51. The COBRA notice provided to Plaintiff omitted important information identifying the party responsible under the Plan for administration of continuing coverage benefits. The generic phrase “Plan Administrator” is included no less than ten (10) separate times throughout the notice, but not once is the Plan Administrator actually identified. Instead, the third-party administrator, WageWorks, is identified and PetSmart is merely referred to as the “employer.” Thus, Plaintiff was never informed *who* administers the continuation coverage.

52. Defendant was required to provide “in a manner calculated to be understood by the average plan participant ... the name, address and telephone number of the party responsible under the plan for administration of continuation coverage benefits.” 29 C.F.R. § 2590.606-4(b)(4)(i). Defendant’s Notice failed to comply with this fundamental requirement.

53. Defendant’s notice only identifies a third-party administrator, WageWorks. A third-party administrator is different from the Plan Administrator. Identifying the Plan Administrator is critical because the plan administrator bears the burden of proving that adequate COBRA notification was given to the employee.

Violation of 29 C.F.R. § 2590.606-4(b)(4)
Failure to Provide COBRA Notice Written in a Manner
Calculated “To Be Understood By the Average Plan Participant”

54. The COBRA notice Plaintiff received from Defendant failed to fully explain the procedures for electing coverage; omitted information regarding the coverage end date; omitted critical payment information; omitted information pertaining to the consequences of delinquent or missed payments; and failed to identify the Plan Administrator. Combined, Defendant’s omissions are a violation of 29 C.F.R. § 2590.606-4(b)(4). This particular section mandates employers provide notice of continuation coverage written in a manner calculated “to be

understood by the average plan participant.” By omitting critical information, Defendant’s notice is not written in a manner calculated “to be understood by the average plan participant.” 29 C.F.R. § 2590.606-4(b)(4)(v).

CLASS ACTION ALLEGATIONS

55. Plaintiff brings this action as a class action pursuant to Rule 23 Fed.R.Civ.P. on behalf of the following persons:

All participants and beneficiaries in the Defendant’s Health Plan who were sent a COBRA notice by Defendant during the applicable statute of limitations period as a result of a qualifying event, as determined by Defendant, who did not elect COBRA.

56. No administrative remedies exist as a prerequisite to Plaintiff’s claim on behalf of the Putative Class. As such, any efforts related to exhausting such non-existent remedies would be futile.

57. Numerosity: The Class is so numerous that joinder of all Class members is impracticable. On information and belief, hundreds or thousands of individuals satisfy the definition of the Class.

58. Typicality: Plaintiff’s claims are typical of the Class. The COBRA notice that Defendant sent to Plaintiff was a form notice that was uniformly provided to all Class members. As such, the COBRA notice that Plaintiff received was typical of the COBRA notices that other Class Members received, and suffered from the same deficiencies.

59. Adequacy: Plaintiff will fairly and adequately protect the interests of the Class members; she has no interests antagonistic to the class, and has retained counsel experienced in complex class action litigation.

60. Commonality: Common questions of law and fact exist as to all members of the

Class and predominate over any questions solely affecting individual members of the Class, including but not limited to:

- a. Whether the Plan is a group health plan within the meaning of 29 U.S.C. § 1167(1);
- b. Whether Defendant's COBRA notice complied with the requirements of 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4;
- c. Whether statutory penalties should be imposed against Defendant under 29 U.S.C. § 1132(c)(1) for failing to comply with COBRA notice requirements, and if so, in what amount;
- d. The appropriateness and proper form of any injunctive relief or other equitable relief pursuant to 29 U.S.C. § 1132(a)(3); and
- e. Whether (and the extent to which) other relief should be granted based on Defendant's failure to comply with COBRA notice requirements.

61. Class Members do not have an interest in pursuing separate individual actions against Defendant, as the amount of each Class Member's individual claims is relatively small compared to the expense and burden of individual prosecution. Class certification will also obviate the need for unduly duplicative litigation that might result in inconsistent judgments concerning Defendant's practices and the adequacy of its COBRA notice. Moreover, management of this action as a class action will not present any likely difficulties. In the interests of justice and judicial efficiency, it would be desirable to concentrate the litigation of all Class Members' claims in a single action.

62. Plaintiff intends to send notice to all Class Members. The names and addresses of the Class Members are available from Defendant's records, as well as from Defendant's third-party administrator, WageWorks.

CLASS CLAIM I FOR RELIEF
Violation of 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4

63. The Plan is a group health plan within the meaning of 29 U.S.C. § 1167(1).

64. Defendant is the sponsor and administrator of the Plan, and was subject to the continuation of coverage and notice requirements of COBRA.

65. Plaintiff and the other members of the Class experienced a “qualifying event” as defined by 29 U.S.C. § 1163, and Defendant was aware that they had experienced such a qualifying event.

66. On account of such qualifying event, Defendant sent Plaintiff and the Class Members a COBRA notice in the form attached hereto as Exhibit A.

67. The COBRA notice that Defendant sent to Plaintiff and other Class Members violated 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4 for the reasons set forth in Paragraphs 8-61 above (among other reasons).

68. These violations were material and willful.

69. Defendant knew that its notice was inconsistent with the Secretary of Labor’s Model Notice and failed to comply with 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4, but chose to use a non-compliant notice in deliberate or reckless disregard of the rights of Plaintiff and other Class Members.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for relief as follows:

- a. Designating Plaintiff’s counsel as counsel for the Class;
- b. Issuing proper notice to the Class at Defendant’s expense;
- c. Declaring that the COBRA notice sent by Defendant to Plaintiffs and other Class Members violated 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4;
- d. Awarding appropriate equitable relief pursuant to 29 U.S.C. § 1132(a)(3), including but not limited to an order enjoining Defendant from continuing

- to use its defective COBRA notice and requiring Defendant to send corrective notices;
- e. Awarding statutory penalties to the Class pursuant to 29 U.S.C. § 1132(c)(1) and 29 C.F.R. § 2575.502c-1 in the amount of \$110.00 per day for each Class Member who was sent a defective COBRA notice by Defendant;
 - f. Awarding attorneys' fees, costs and expenses to Plaintiffs' counsel as provided by 29 U.S.C. § 1132(g)(1) and other applicable law; and
 - g. Granting such other and further relief, in law or equity, as this Court deems appropriate.
 - h. Designating Plaintiffs' counsel as counsel for the Class;
 - i. Issuing proper notice to the Class at Defendant's expense;
 - j. Declaring that the COBRA notice sent by Defendant to Plaintiffs and other Class Members violated 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4;
 - k. Awarding appropriate equitable relief pursuant to 29 U.S.C. § 1132(a)(3), including but not limited to an order enjoining Defendant from continuing to use its defective COBRA notice and requiring Defendant to send corrective notices;
 - l. Awarding statutory penalties to the Class pursuant to 29 U.S.C. § 1132(c)(1) and 29 C.F.R. § 2575.502c-1 in the amount of \$110 per day for each Class Member who was sent a defective COBRA notice by Defendant;
 - m. Awarding attorneys' fees, costs and expenses to Plaintiffs' counsel as provided by 29 U.S.C. § 1132(g)(1) and other applicable law; and
 - n. Granting such other and further relief, in law or equity, as this Court deems appropriate.

Dated this 12th day of November, 2019.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.
Fla. Bar No. 0096342
MORGAN & MORGAN, P.A.
201 N. Franklin Street, Suite 700

Tampa, FL 33602
Telephone 813-223-5505
Fax: 813-257-0572
Email: MEdelman@forthepeople.com

and

BRANDON J. HILL, ESQ.
Florida Bar Number: 37061
Direct No.: 813-337-7992
LUIS A. CABASSA, ESQ.
Florida Bar Number: 053643
Direct No.: 813-379-2565
WENZEL FENTON CABASSA, P.A.
1110 North Florida Ave., Suite 300
Tampa, Florida 33602
Main No.: 813-224-0431
Facsimile: 813-229-8712
Email: lcabassa@wfclaw.com
Email: bhill@wfclaw.com

Attorneys for Plaintiff

EXHIBIT “A”

To Erica S Silberstein and Covered Dependents

Doc: 77376706 Sequence: 606 Form: 2 Server: 1

COBRA COVERAGE ELECTION NOTICE

Participant Name: Erica S Silberstein
Employer: PetSmart, Inc.
Election Deadline: 12/18/2018
Qualifying Event: Termination

Date of Notice: 10/16/2018
Date of Coverage Loss: 10/9/2018
COBRA Coverage Start Date if Elected: 10/10/2018

To Erica S Silberstein and Eligible Covered Dependents (If applicable) - 26021853:

This notice has important information about your rights to continue your health coverage in the PetSmart, Inc. group health plan ("Plan") under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (COBRA), as well as other health coverage options that may be available to you, including coverage through the Health Insurance Marketplace ("Marketplace") at www.HealthCare.gov or call 1-800-318-2596. You may be able to get coverage through the Marketplace that costs less than COBRA continuation coverage. More information regarding the Marketplace is provided at the end of this notice.

Please read the information in this notice very carefully before you make your decision and keep it for your records. This notice applies equally to each qualified beneficiary identified in this notice. If you choose to elect COBRA continuation coverage, you should use the COBRA Coverage Election Form provided later in this notice.

WageWorks has been retained by PetSmart, Inc. to notify you, your covered spouse, and/or your covered dependent children ("Qualified Beneficiaries") of your rights to a temporary extension of group health plan coverage ("COBRA coverage") at group rates after certain events ("qualifying events") that would otherwise cause you to lose coverage under the Plan. NOTE: Notices are sent to the last known address on file with your plan sponsor. It is your obligation to notify PetSmart, Inc. in writing if there are any Qualified Beneficiaries who reside at a different address. Otherwise they may not receive notice of their rights and obligations under COBRA.

You are receiving this notice because your coverage under the Plan will end 10/09/2018 due to the qualifying event designated above.

Instead of enrolling in COBRA coverage, there may be other more affordable coverage options for you and your family through the Marketplace, Medicaid, or other group health plan coverage options (such as a spouse's plan) through what is called a "special enrollment period." Some of these options may cost less than COBRA coverage.

You should compare your other coverage options with COBRA coverage and choose the coverage that is best for you. For example, if you move to other coverage you may pay more out of pocket than you would under COBRA because the new coverage may impose a new deductible.

When you lose job-based health coverage, it's important that you choose carefully between COBRA coverage and other coverage options, because once you've made your choice, it can be difficult or impossible to switch to another coverage option. Also, if you elect coverage through the Marketplace, you may experience a gap in coverage between the date you lose coverage under the group health plan and the date coverage through the Marketplace begins (whereas you will not experience a gap if you elect and pay for COBRA continuation coverage).

If you choose to elect COBRA coverage, you do not have to send any premium payment(s) with the COBRA Coverage Election Form. Additional information about payment will be provided to you after you make your election.

Premium payments are considered paid on the date you mail them (as evidenced by your postmark date). If your premium payment is made by check, and your check is returned because of insufficient funds, your premium is treated as unpaid. You must make full payment within the required time period, including a grace period, to prevent cancellation. If you submit any premium payment after the required postmark date, or if you submit any premium payment and you are otherwise ineligible for coverage, these payments will be refunded to you. Acceptance of premium payments by WageWorks is not an indication that coverage is in force. If your coverage is canceled for non-payment of premium, you cannot reinstate it.

0105126021853

Important additional information about COBRA coverage and other health coverage alternatives (such as coverage through the Marketplace, which may cost less than Cobra coverage) is included in the pages following the COBRA Coverage Election Form (see "IMPORTANT INFORMATION: COBRA Coverage Rights and Other Health Coverage Alternatives" [below]).

Questions concerning your Plan should be addressed to PetSmart, Inc..

If you have any questions about this notice or need further information about your rights to elect COBRA coverage, please contact WageWorks at 1-877-722-2667.

If you would like to speak to a licensed benefits advisor to help you understand all of your coverage options, please call Simply Covered at 877-470-3996 or visit www.SimplyCovered.com.

Individuals whose coverage ended, or who were denied coverage (or were not eligible for coverage), because the availability of dependent coverage of children ended before attainment of age 26 are eligible to enroll in the PetSmart, Inc. group health plan. Individuals may request enrollment for such children for 30 days from the date of notice. Enrollment will be effective 1/1/2014. For more information, please contact the PetSmart Benefits Team at 866-263-8411.

COBRA COVERAGE ELECTION FORM INSTRUCTIONS

Please read the important information about your rights included in the pages following the COBRA Coverage Election Form (see "IMPORTANT INFORMATION: COBRA Coverage Rights and Other Health Coverage Alternatives") for more information on your rights and obligations under COBRA.

If you choose to elect COBRA coverage, please complete the attached COBRA Coverage Election Form and mail the completed COBRA Coverage Election Form by United States Postal Service ("USPS") to WageWorks at PO Box 226101 Dallas, TX 75222-6101. You may also fax the completed COBRA Coverage Election Form to Fax #: 866-599-3141.

IF YOU WANT TO ELECT ONLINE: If you wish to elect online, you can complete your enrollment on our website at mybenefits.wageworks.com. You will need to provide your name, date of birth, valid e-mail address, and Social Security number or your designated WageWorks account number to register for a WageWorks "user name." The information you provide in connection with your online enrollment is kept confidential in accordance with WageWorks' privacy policy, which you can find at mybenefits.wageworks.com.

Oral elections will not be accepted. Elections must be made in accordance with these COBRA Coverage Election Form Instructions.

Your election must be made on or before the Election Deadline identified on the first page of the notice, which is 12/18/2018. If you mail your election to WageWorks, your completed COBRA Coverage Election Form must be postmarked by the USPS on or before 12/18/2018. If WageWorks does not receive the COBRA Coverage Election Form, you will be responsible for proving that you mailed the election form by the Election Deadline. You may follow up with WageWorks several days after you have mailed the form to ensure that WageWorks received it. If you elect COBRA coverage online, you must make your election at the website specified above and successfully submitted in accordance with the online instructions on or before 12/18/2018.

If you do not mail or electronically submit a completed COBRA Coverage Election Form by the Election Deadline shown above, you will lose your right to elect COBRA coverage. If you reject your right to COBRA coverage before the Election Deadline, you may change your mind by submitting a completed COBRA Coverage Election Form in accordance with the instructions above before the original Election Deadline, which is 12/18/2018. However, if you reject your COBRA rights and then later revoke that waiver, the Plan is not required to provide COBRA coverage for the period ending with the date on which your revocation is made (which means you could have a gap in coverage). Consult the Plan's most recent Summary Plan Description for more information concerning the Plan's procedures for revoking a waiver of the right to COBRA continuation coverage.

COBRA COVERAGE ELECTION FORM

Participant Name: Erica S Silberstein
 Employer: PetSmart, Inc.
 Form Number: CLC02

Election Deadline: 12/18/2018
 Account Number:
 Document ID: 77376706

Please make initial and ongoing premiums payable to WageWorks, Inc., PO Box 660212, Dallas, TX 75266-0212
 (Note: The payment address only accepts regular USPS mail; overnight packages are not accepted.)

Section A.1. Group Health Plan Component(s)

Check the box next to the monthly cost of the group health plan component(s) you are selecting. Please note that you may not obtain coverage above what you had on the day you lost coverage.

	Date of Group Health Coverage Component Loss	COBRA Coverage Start Date if Electing*
Dental - * Cigna Dental PPO 1 Child Only <input type="checkbox"/> \$35.50 Children Only <input type="checkbox"/> \$35.50 Employee + Child <input type="checkbox"/> \$65.07 Employee + Children <input type="checkbox"/> \$65.07 Employee Only <input type="checkbox"/> \$29.57	10/09/2018	10/10/2018
Medical w/ Prescription - * UHC Medical PPO 2 Employee Only <input type="checkbox"/> \$485.67	10/09/2018	10/10/2018
Vision - * VSP Vision Child Only <input type="checkbox"/> \$7.33 Children Only <input type="checkbox"/> \$7.33 Employee + Child <input type="checkbox"/> \$14.72 Employee + Children <input type="checkbox"/> \$14.72 Employee Only <input type="checkbox"/> \$7.33	10/09/2018	10/10/2018

*Unless you affirmatively waive coverage and then later revoke that coverage.

Section B. Participant Information

Please verify our records are accurate and make changes as necessary. You MUST select the plan type for each individual identified below that you intend to cover. You may not decline coverage for a qualified beneficiary spouse or an adult dependent child but you may elect coverage for any other qualified beneficiary. If you need additional COBRA Coverage Election Forms, please contact WageWorks at 1-877-722-2667 or through the Message Center tab at mybenefits.wageworks.com.

Participant Name	Relationship	Birth Date	Gender
Silberstein, Erica S Dental <input type="checkbox"/> Medical w/ Prescription <input type="checkbox"/> Vision <input type="checkbox"/>	Self		F
Dependent Name(s) Dental <input type="checkbox"/> Vision <input type="checkbox"/>	Child		F
Dental <input type="checkbox"/> Vision <input type="checkbox"/>	Child		M
Dental <input type="checkbox"/> Vision <input type="checkbox"/>	Child		M

Section C. Medicare Entitlement

Is the covered employee enrolled in Medicare Part A, Part B, or both? Yes No

If yes, please provide the enrollment date, as shown on the Medicare card: _____

Applicant's Authorization and Agreement

By my signature below:

- I elect the COBRA continuation coverage checked above in Section A1 under the PetSmart, Inc. group health plan;
- I understand that any COBRA election I make above is deemed to include an election for all other qualified beneficiaries identified above except as specified otherwise above; and
- I verify that I have read and understood the information provided to me in this COBRA Coverage Election Notice, COBRA Coverage Election Form, and "IMPORTANT INFORMATION: COBRA Coverage Rights and Other Health Coverage Alternatives" enclosure.

Applicant's Signature: _____ Date: _____

IMPORTANT INFORMATION: COBRA COVERAGE RIGHTS
AND OTHER HEALTH COVERAGE ALTERNATIVES

COBRA COVERAGE

COBRA coverage is a continuation of Plan coverage when coverage would otherwise end because of a *qualifying event* (described below). After a qualifying event occurs and any required notice of that event is properly provided to the Plan Administrator, COBRA coverage must be offered to individuals who lose Plan coverage and are *qualified beneficiaries*.

A qualified beneficiary is any of the following who is covered under the Plan on the day before a qualifying event: (1) the employee or former employee ("covered employee"), (2) the employee's spouse ("covered spouse"), and/or (3) a "child" of the employee, as defined by the Plan ("covered dependent child"). In addition, a child born to, adopted by, or placed for adoption with a covered employee during a period of the covered employee's COBRA coverage is considered a qualified beneficiary to the extent that such child is enrolled in accordance with the terms of the Plan. A child of the covered employee receiving benefits pursuant to a qualified medical child support order (QMCSO), to the extent that such child is enrolled in accordance with the terms of the Plan, is entitled to the same rights to elect COBRA coverage as any other covered dependent child.

COBRA coverage is generally the same coverage provided under the Plan to similarly situated active individuals who are not on COBRA. Each qualified beneficiary who elects COBRA coverage will have the same rights under the Plan as other similarly situated non-COBRA participants covered under the group health plan component(s) of the Plan elected by the qualified beneficiary, including annual enrollment and special enrollment rights.

COBRA (and the description of COBRA coverage contained in this notice) generally applies only to the group health plan benefits offered under the Plan and not to any other benefits (e.g., life insurance, disability insurance).

QUALIFYING EVENTS

For covered employees, you may elect COBRA coverage if you lose coverage under the Plan because of either one of the following qualifying events: (1) your hours of employment are reduced; or (2) your employment ends for any reason (other than gross misconduct on your part).

For the covered spouse, you may elect COBRA coverage if you lose coverage under the Plan because of any of the following qualifying events: (1) the covered employee's hours of employment are reduced; (2) the covered employee's employment ends for any reason (other than his or her gross misconduct); (3) the covered employee dies; (4) the covered employee becomes entitled to Medicare benefits under Part A, Part B, or both; or (5) you and the covered employee divorce or legally separate. Also, if the covered spouse's coverage is reduced or dropped by the covered employee in anticipation of a divorce or legal separation, and a divorce or legal separation later occurs, then the divorce or legal separation may be considered a qualifying event for the spouse even though the coverage was canceled or reduced before the divorce or legal separation. If the ex-spouse notifies the Plan Administrator within 60 days after the divorce and the Plan Administrator determines, at its sole discretion based on the applicable facts and circumstances, that the coverage was dropped in anticipation of the divorce, then COBRA coverage may be available beginning with the date of the divorce (if properly elected).

For a covered dependent child, you may elect COBRA coverage if you lose coverage under the Plan because of any of the following qualifying events: (1) the covered employee's hours of employment are reduced; (2) the covered employee's employment ends for any reason (other than his or her gross misconduct); (3) the covered employee dies; (4) the covered employee becomes entitled to Medicare benefits under Part A, Part B, or both; (5) the covered employee and his or her spouse divorce or legally separate; or (6) you cease to be eligible for coverage under the Plan as a dependent.

You also have a right to elect COBRA coverage if you are covered under the Plan as a retired employee, a covered spouse of a retired employee, the surviving spouse of a retired employee, or a covered dependent child of a retired employee, and lose retiree coverage within one year before or after the commencement of proceedings under Title 11 (bankruptcy), United States Code.

ELECTING COBRA COVERAGE

To elect COBRA coverage, you must complete the COBRA Coverage Election Form and submit it to WageWorks according to the instructions included with the COBRA Coverage Election Form by the date specified on the COBRA Coverage Election Form. **Failure to do so will result in a loss of the right to elect COBRA coverage under the Plan.** It is recommended that you retain a copy of your COBRA coverage election and any documentation substantiating your submission for your records. Each qualified beneficiary has an independent right to make a COBRA election. That means that a covered employee and a covered spouse (if the spouse is a qualified beneficiary) may elect COBRA coverage on behalf of all the qualified beneficiaries, and parents may elect COBRA coverage on behalf of their children. However, a covered employee may not decline COBRA coverage for a covered spouse or an adult covered dependent child (if the spouse or adult covered dependent child is a qualified beneficiary). If the covered employee does not elect coverage for the qualified beneficiary spouse, the qualified beneficiary spouse may elect COBRA coverage separately on behalf of the covered spouse and all other qualified beneficiaries. In addition, the parent or legal guardian of a minor covered dependent child who is a qualified beneficiary may elect coverage on behalf of the minor child.

Additional information about the group health plan component(s) of the Plan is available in the Plan's summary plan description (SPD). If you do not have a copy of the SPD, you may obtain one from the Plan Administrator of your group health plan.

Qualified beneficiaries who are entitled to elect COBRA coverage may do so even if they have other group health plan coverage or are entitled to Medicare benefits (under Part A, Part B, or both) on or before the date on which COBRA coverage is elected. However, a qualified beneficiary's

COBRA coverage may terminate if, after electing COBRA coverage, he or she becomes entitled to Medicare benefits (under Part A, Part B, or both) or covered under other group health plan coverage (see "Duration of COBRA Coverage" below for more information on when COBRA coverage ends).

When considering whether to elect COBRA coverage, you should consider that you may have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage under the Plan ends because of the qualifying event listed above. You will also have the same special enrollment right after you exhaust the maximum COBRA coverage period available to you.

DURATION OF COBRA COVERAGE

The maximum COBRA period is generally measured from the date of the qualifying event, even if coverage is not immediately lost (unless stated otherwise in your SPD). COBRA coverage begins on the day following the date that coverage under the Plan is lost because of the qualifying event.

In the case of a loss of coverage due to the covered employee's termination of employment or reduction in hours of the covered employee's employment, coverage may generally last for up to 18 months.

When the qualifying event is the covered employee's termination of employment or reduction in hours of the covered employee's employment, and the employee became entitled to Medicare benefits (under Part A, Part B, or both) less than 18 months before the qualifying event, COBRA coverage for qualified beneficiaries (other than the employee) who lose coverage as a result of the termination of employment or reduction in hours qualifying event can last up to 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare 8 months before the date on which her employment terminates, COBRA coverage for her spouse and children who lost coverage as a result of her termination of employment can last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus 8 months). If you were already entitled to Medicare before electing COBRA, please notify WageWorks of the date of your Medicare entitlement according to WageWorks notice procedures (see "Notice Procedures for Qualified Beneficiaries" [below]).

In the case of a loss of coverage due to the death of the employee, the covered employee's divorce or legal separation, the covered employee's becoming enrolled in Medicare benefits (under Part A, Part B, or both), or a covered child losing eligibility as a child under the terms of the Plan, COBRA coverage may last for up to 36 months (provided that timely notice of the qualifying event was provided in accordance with the Plan's notice procedures).

COBRA coverage under a Health FSA may only last through the end of the plan year in which the qualifying event occurs (unless stated otherwise in the group health plan SPD). This coverage may not be extended beyond the end of the plan year (see "Special Health FSA Rule" [below]), except for a grace period applicable to the plan year.

The COBRA periods described above are maximum coverage periods. The law provides that COBRA coverage may be terminated prior to the end of the maximum coverage periods described in this notice for any of the following reasons: (1) the employer/former employer no longer provides any group health coverage to any of its employees; (2) the premium for COBRA coverage is not paid in a timely manner; (3) you first become, after electing COBRA coverage, covered under any other group health plan (as a covered employee or otherwise); (4) you first become, after electing COBRA coverage, entitled to Medicare benefits (under Part A, Part B, or both); or (5) during a disability extension period (see "Disability Extension of COBRA Coverage" [below]), the disabled qualified beneficiary is determined by the Social Security Administration to be no longer disabled (COBRA coverage for all qualified beneficiaries, not just the disabled qualified beneficiary, will terminate). COBRA coverage may also be terminated for any reason the Plan would terminate coverage of a participant or beneficiary not receiving COBRA coverage (such as fraud).

You must notify WageWorks in writing as soon as possible within 30 days if, after electing COBRA coverage, a qualified beneficiary becomes covered under other group health plan coverage or becomes enrolled in Medicare benefits (under Part A, Part B, or both) according to WageWorks notice procedures (see "Notice Procedures for Qualified Beneficiaries" [below]).

SPECIAL HEALTH FSA RULE

If you have coverage under a Health FSA that is an excepted benefit (as defined by HIPAA's portability rules), you may only continue coverage through the end of the plan year in which the qualifying event occurs (unless stated otherwise in the group health plan SPD), except for a grace period applicable to the plan year.

Moreover, only those who have "underspent" their account as of the date of the qualifying event may elect Health FSA coverage. A qualified beneficiary has an "underspent" account if the account balance at the time of the qualifying event is equal to or more than the amount of the premiums for Health FSA COBRA coverage that will be charged for the remainder of the plan year. COBRA coverage will consist of the Health FSA coverage in force at the time of the qualifying event (that is, the elected annual limit reduced by reimbursable claims submitted up to the time of the qualifying event). The "use-it-or-lose-it" rule will continue to apply, so any unused amounts will be forfeited at the end of the plan year, and COBRA coverage will terminate at the end of the plan year (unless stated otherwise in the group health plan SPD), subject to any applicable grace period attributable to the plan year.

SPECIAL RULES FOR LEAVES OF ABSENCE DUE TO SERVICES IN THE UNIFORMED SERVICES

If a covered employee takes a leave of absence to perform services in the Uniformed Services (as addressed in the Uniformed Services Employment and Reemployment Act [USERRA]) that is expected to last 31 days or more, the covered employee may be able to continue health coverage for the employee and any covered dependents until the earlier of 24 months from the date the leave began or the date that the employee fails to return to or apply for work as required under USERRA. The cost to continue this coverage during periods of 31 days or more is 102 percent of the applicable premium. The USERRA continuation period will run concurrent with the COBRA period described herein, unless specified otherwise in the SPD. The rights described in this notice apply only to the COBRA continuation period. Notwithstanding anything to the contrary in this notice,

01051050060604

continuation of coverage under a military leave of absence covered under USERRA will be administered in accordance with the requirements of USERRA

EXTENDING THE DURATION OF COBRA COVERAGE

If you elect COBRA coverage resulting from a covered employee's termination of employment or reduction in hours of the covered employee's employment, an extension of the maximum period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify WageWorks of a disability or a second qualifying event in order to extend the period of COBRA coverage. Failure to provide notice of a disability or second qualifying event may eliminate the right to extend the period of COBRA coverage. The determination is at the sole discretion of the Plan Administrator. (The period of COBRA coverage under a Health FSA cannot be extended [unless stated otherwise in the group health plan SPD].)

DISABILITY EXTENSION OF COBRA COVERAGE

If you or any qualified beneficiary in your family is determined by the Social Security Administration to be disabled under Title II or XVI of the Social Security Act, the maximum COBRA coverage period that results from a covered employee's termination of employment or reduction in hours of the covered employee's employment (generally 18 months, as described above) may be extended for an additional 11 months of COBRA coverage (for a total of 29 months). This disability must have started at some time prior to or within the first 60 days of the COBRA continuation period arising from a qualifying event that is a termination of employment or reduction in hours of employment and must last at least until the end of the period of COBRA coverage that would otherwise be available without the disability extension (generally 18 months, as described above).

While the Social Security Administration offices in each state vary and do not always provide the same "Social Security Administration Retirement, Survivors and Disability Insurance Notice of Award" letter, many such award letters list this disability start date under the heading "The Date You Became Disabled." For example, if you receive a Social Security Administration award letter that reads, "We found that you became disabled under our rules on January 15, 2002," the disability start date for this purpose would be January 15, 2002.

Each qualified beneficiary in your family who has elected COBRA coverage due to the same qualifying event as the disabled qualified beneficiary will be entitled to the disability extension if one of them qualifies.

The disability extension is available only if you notify WageWorks according to WageWorks' notice procedures (see "Notice Procedures for Qualified Beneficiaries" [below]) of the Social Security Administration's determination of disability within 60 days after the latest of: (1) the date of the determination of disability by the Social Security Administration; (2) the date of the qualifying event that is the covered employee's termination of employment or reduction in hours of the covered employee's employment; or (3) the date on which the qualified beneficiary loses (or would lose) coverage under the terms of the plan as a result of the covered employee's termination of employment or reduction in hours of the covered employee's employment. In addition, you must also provide notice of the Social Security Administration's determination of disability prior to the end of the 18-month continuation period (regardless of when the 60-day period would otherwise end).

If these procedures are not followed or if the notice is not provided during the applicable notice period, then you may be determined to be ineligible to receive the disability extension of COBRA coverage. This determination is at the sole discretion of the Plan Administrator.

If the qualified beneficiary is determined by the Social Security Administration to no longer be disabled, you must notify WageWorks of that fact as soon as possible but no later than 30 days after the Social Security Administration's final determination according to WageWorks' notice procedures (see "Notice Procedures for Qualified Beneficiaries" [below]). If COBRA coverage is extended due solely to the disability, extended COBRA coverage will cease on the first day of the month that begins more than 30 days after the Social Security Administration's notice that the qualified beneficiary is no longer disabled or the end of the maximum COBRA period, whichever is earlier.

SECOND QUALIFYING EVENT EXTENSION OF COBRA COVERAGE

If a qualified beneficiary who is a covered spouse or covered dependent child experiences another qualifying event during the first 18 months of COBRA coverage (because of the covered employee's termination of employment or reduction in hours of the covered employee's employment) or during an 11-month disability extension period (see "Disability Extension of COBRA Coverage" [above]), this qualified beneficiary receiving COBRA coverage may receive up to 18 additional months of COBRA coverage (for a total of 36 months), if notice of the second qualifying event is provided in accordance with WageWorks' notice procedures (see "Notice Procedures for Qualified Beneficiaries" [below])

This extension may be available to the covered spouse and any covered dependent children receiving COBRA coverage if the employee/former employee dies, becomes entitled to Medicare benefits (under Part A, Part B, or both), or gets divorced or legally separated, or if the covered dependent child stops being eligible under the Plan as a "dependent child," but only if the event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred. (A second event will be a "second qualifying event" for COBRA purposes only to the extent that it would have caused the qualified beneficiary to lose coverage under the Plan had it been the initial qualifying event.)

This second qualifying event extension is available only if you notify WageWorks according to WageWorks' notice procedures (see "Notice Procedures for Qualified Beneficiaries" below) of the second qualifying event within 60 days after the date of the second qualifying event occurs.

If you do not follow WageWorks' notice procedures, then you will not be eligible for the extension of coverage.

COST OF COBRA COVERAGE

plan (including both employer and employee contributions) for coverage of a similarly situated plan participant or beneficiary who is not receiving COBRA coverage. The current required monthly payment for each group health plan component of the Plan under which you are entitled to elect COBRA coverage is shown on the COBRA Coverage Election Form. Note that these amounts are subject to change in the future in accordance with the Plan's provisions and will most likely be higher than they are now.

TRADE ADJUSTMENT ASSISTANCE

The Trade Act of 2002 created the Health Coverage Tax Credit (HCTC) for certain individuals who become eligible for trade adjustment assistance and for certain retired individuals who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC) ("Eligible Individuals"). The HCTC expired on January 1, 2014, but was retroactively reinstated and modified by the Trade Adjustment Assistance Reauthorization Act of 2015 for coverage periods beginning before January 1, 2020. Under these tax provisions, Eligible Individuals can either take a tax credit or get advance payment of 72.5 percent of premiums paid for qualified health insurance, including COBRA continuation coverage. For more information, visit www.irs.gov/HCTC.

PAYING FOR COBRA COVERAGE

INITIAL PREMIUM PAYMENT

You must make your initial payment for COBRA coverage no later than 45 days after the date of your election. The "date of your election" is the date on which your completed COBRA Coverage Election Form is postmarked by the USPS, if mailed, or the date on which your COBRA election is successfully submitted electronically if made at the website specified above. If you do not make your first payment for COBRA coverage in full no later than 45 days after the date of your election, you will lose all COBRA rights under the Plan.

Your initial premium payment must cover the cost of COBRA coverage from the time your coverage under the Plan would have otherwise terminated up through the end of the month preceding the month in which your payment is made. For example, a June 1 election, based on an April 30 qualifying event and loss of coverage under the Plan, would require an initial premium payment equaling the premiums for May and June and is due on or before July 15, the 45th day after the COBRA coverage election. You are responsible for ensuring that the amount of your initial payment is enough to cover this entire period. You may contact WageWorks to confirm the correct amount of your initial premium payment.

Claims for benefits may not be processed and paid until after you have elected COBRA coverage and paid required premiums.

MONTHLY PREMIUM PAYMENTS

After you make your initial premium payment for COBRA coverage, you will be required to make monthly payments for each COBRA coverage period that follows. The amount due for each coverage period for each qualified beneficiary is shown on the COBRA Coverage Election Form. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for COBRA coverage is due on the first day of the month for that coverage period. You may receive a courtesy monthly invoice within two weeks of your COBRA coverage election. You may also receive courtesy monthly invoices for each subsequent period thereafter, assuming your COBRA coverage has not been canceled. However, you are responsible for paying the full premium on time even if you do not receive an invoice.

GRACE PERIODS FOR MONTHLY PREMIUM PAYMENTS

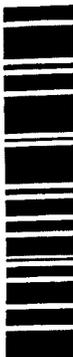
Although monthly payments are due on the first day of each month of COBRA coverage, you will be given a grace period of 30 days after the first day of the month to make each monthly payment. You will receive COBRA coverage for each coverage period as long as payment for that coverage period is made before the end of the grace period.

IMPORTANT: If you pay a monthly payment later than the first day of the month to which it applies, but before the end of the grace period for the month, your coverage under the Plan may be suspended as of the first day of the month and then retroactively reinstated (going back to the first day of the month) when the monthly payment is received. This means that any claims for benefits you submit for benefits while coverage is suspended may not be processed and paid until after you have timely paid the full premium. WageWorks will not request an update of eligibility for any qualified beneficiary until the monthly premium due is received and applied. Depending upon the timing of receipt of a premium payment, it may take several days to process and update eligibility with the insurance carrier.

If you fail to make a monthly payment before the end of the grace period for that month, you will lose all rights to COBRA coverage under the Plan and your coverage will end as of the last day of the last month for which you made a full and timely premium payment.

Your courtesy monthly invoices will provide a remittance address and indicate the amount owed and due date. This invoice should be signed, detached, and enclosed with each month's premium payment. If mailed, your payment is considered to have been made on the date that it is USPS postmarked provided that it is ultimately received by WageWorks. WageWorks is a third-party administrator and is not engaged in the provision of health care benefits. Any deposit of a payment by WageWorks prior to return of such money will not constitute an acceptance of the premium payment. Depending on the timing of receipt of payment and scheduled communication updates, it may take several days to update eligibility with your group health insurance carrier(s). Waiting until the end of the grace period to make your payment could also put you at risk of not having sufficient time to correct errors. You will not be considered to have made any payment if your payment is returned due to insufficient funds or if there is otherwise a discrepancy with your payment (e.g., funds are not immediately available or verifiable, invalid banking account number, unsigned checks, incorrect payment amounts, payments sent to the wrong address, late or missed pickups by the USPS) and your account for that period will be marked as unpaid. WageWorks cannot guarantee that you will be notified of the discrepancy in time to correct your payment prior to the end of any applicable grace period. In such event, you will lose all rights to COBRA coverage under the Plan. In the event that the employer or plan sponsor terminates the Plan (through voluntary termination or bankruptcy) your group health coverage may be terminated retroactively. In the

01051050060605



event that the Plan is terminated, WageWorks cannot guarantee a refund of your payment if WageWorks has already forwarded that payment to the employer or plan sponsor for payment on your behalf.

NOTICE PROCEDURES FOR QUALIFIED BENEFICIARIES

IMPORTANT: If your notice is late or if you do not follow these notice procedures, you and all related qualified beneficiaries may lose the right to any extension of COBRA coverage.

Any required notice the qualified beneficiary is required to furnish (as described above) must follow these notices procedures. Notices must be sent to WageWorks in writing (by mail or electronic transmittal [e.g., facsimile, e-mail]) to:

WageWorks, Inc.
P.O. Box 650407
Dallas, TX 75265-0407
Fax #: 866-599-3141

If a different address and/or procedures for providing notices to the Plan appear in the Plan's most recent SPD, you must follow those notice procedures or deliver your notice to that address.

Oral notice (including notice by telephone) is not acceptable.

Any notice you provide must contain the name of the Plan (PetSmart, Inc. group health plan); the name, WageWorks Account Number or Social Security number, and address of the employee/former employee who is or was covered under the Plan; the name(s) and address(es) of all qualified beneficiary(ies) who lost coverage as a result of the qualifying event; and the certification, signature, name, address, and telephone number of the person providing the notice.

The employee/former employee who is or was covered under the Plan, a qualified beneficiary who lost coverage due to the qualifying event described in the notice, or a representative acting on behalf of either may provide the notices described herein. A notice provided by any of these individuals will satisfy any responsibility to provide notice on behalf of all qualified beneficiaries who lost coverage due to the qualifying event described in the notice.

ADDITIONAL NOTICE PROCEDURES FOR A NOTICE OF DISABILITY

A Notice of Disability must also contain the name(s) and address(es) of all qualified beneficiary(ies) who lost coverage due to the initial qualifying event and who are currently receiving COBRA coverage at the time the Notice of Disability is provided; the name and address of the disabled qualified beneficiary as determined by the Social Security Administration; the date that the qualified beneficiary became disabled as determined by the Social Security Administration; the date that the Social Security Administration made its determination of disability (generally, this is the date on which the "Social Security Administration Retirement, Survivors and Disability Insurance Notice of Award" letter was issued); and a statement as to whether or not the Social Security Administration has subsequently determined that the qualified beneficiary is no longer disabled. A copy of the "Social Security Administration Retirement, Survivors and Disability Insurance Notice of Award" letter should be included (or any other substantiating documentation provided to you by the Social Security Administration that discloses the date on which you became disabled and the date on which the Social Security Administration made such determination).

If you provide a written notice to WageWorks that does not contain all of the information and documentation specified by these Notice Procedures and Additional Notice Procedures for a Notice of Disability, such a notice will be considered sufficient if it is mailed or transmitted electronically to WageWorks at the address, facsimile number, or e-mail address specified above or provided directly to the Plan Administrator according to the notice procedures appearing in the Plan's most recent SPD; the notice is provided by the deadline specified above; and the notice is substantiated with any additional information and documentation as the Plan and/or WageWorks deems necessary to meet these requirements (as described in these Notice Procedures for a Notice of Disability) within 10 business days after a written request from WageWorks or the Plan for more information (or, if later, by the deadline for the Notice of Disability described above).

If these procedures are not followed or if the notice is not provided during the applicable 60-day notice period and within 18 months after the covered employee's termination of employment or reduction in hours of the covered employee's employment, then you may be determined to be ineligible to receive the disability extension of COBRA coverage. This determination is at the sole discretion of the Plan Administrator.

ADDITIONAL NOTICE PROCEDURES FOR A NOTICE OF A SECOND QUALIFYING EVENT

A Notice of a Second Qualifying Event must also contain the name(s) and address(es) of all qualified beneficiary(ies) who lost coverage due to the initial qualifying event and are currently receiving COBRA coverage at the time the Notice of a Second Qualifying Event is provided; the second qualifying event (i.e., the employee/former employee dies, becomes entitled to Medicare benefits [under Part A, Part B, or both], or gets divorced or legally separated, or if the covered child stops being eligible under the Plan as a child; and the date that the second qualifying event occurred.

If the Notice of a Second Qualifying Event relates to the death of the employee/former employee, you must, if requested, provide additional satisfactory documentation of the date of death (e.g., a death certificate).

If the Notice of a Second Qualifying Event relates to the entitlement to Medicare benefits (under Part A, Part B, or both) of the employee/former employee, your notice must include the date that Medicare entitlement occurred and a copy of the Medicare card showing the date of Medicare entitlement. (Typically, a covered employee's entitlement to Medicare benefits [under Part A, Part B, or both] will not be a qualifying event for spouses or covered children of active employees due to the Medicare Secondary Payer rules; in such a case, this extension is not available under the Plan when an employee/former employee becomes entitled to Medicare benefits after his or her termination of employment or reduction in hours of

employment.)

If the Notice of a Second Qualifying Event relates to a divorce or legal separation, your notice must include a copy of the decree of divorce or legal separation. If the Notice of a Second Qualifying Event relates to a covered child's loss of eligibility under the Plan as a child, you must, if requested, provide additional satisfactory documentation of the date on which this loss of eligibility occurred (e.g., a birth certificate establishing the child's age).

If you provide a written notice to WageWorks that does not contain all the information and documentation specified in these Notice Procedures and Additional Notice Procedures for a Notice of a Second Qualifying Event, such a notice will be considered sufficient if it is mailed or transmitted electronically to WageWorks at the address, facsimile number, or e-mail address specified above or provided directly to the Plan Administrator according to the notice procedures appearing in the Plan's most recent SPD; the notice is provided by the deadline specified above, and the notice is substantiated with any additional information and documentation as the Plan and/or WageWorks deems necessary to meet these requirements (as described in these Notice Procedures for a Notice of a Second Qualifying Event) within 10 business days after a written request from WageWorks or the Plan for more information (or, if later, by the deadline for the Notice of a Second Qualifying Event described above).

If these procedures are not followed or if the notice is not provided during the applicable 60-day notice period, then you may be determined to be ineligible to receive the second qualifying event extension of COBRA coverage. This determination is at the sole discretion of the Plan Administrator.

ADDITIONAL NOTICE PROCEDURES FOR A NOTICE OF OTHER GROUP HEALTH PLAN COVERAGE OR MEDICARE ENTITLEMENT

A Notice of Other Group Health Plan Coverage or Medicare Entitlement must contain the name of the Plan (PetSmart, Inc. group health plan); the name, WageWorks Account Number or Social Security number, and address of the employee or former employee who is or was covered under the Plan; the name(s) and address(es) of all qualified beneficiary(ies) who lost coverage due to the initial qualifying event and who are currently receiving COBRA coverage at the time the Notice of Other Group Health Plan Coverage or Medicare Entitlement is provided; the name and address of the qualified beneficiary(ies) who obtained other coverage or became entitled to Medicare benefits (under Part A, Part B, or both); the date the other coverage became effective; and evidence of the effective date of other group health plan coverage (e.g., a copy of the insurance card) or the date Medicare entitlement occurred (i.e., a copy of the Medicare card showing the date of Medicare entitlement).

If a qualified beneficiary becomes, after electing COBRA coverage, covered under other group health plan coverage or entitled to Medicare benefits (under Part A, Part B, or both), that qualified beneficiary's COBRA coverage will terminate (retroactively if applicable) regardless of whether or when Notice of Other Group Health Plan Coverage or Medicare Entitlement is provided. PetSmart, Inc. may require repayment to the Plan of all benefits paid after the COBRA coverage termination date.

ADDITIONAL NOTICE PROCEDURES FOR REQUESTS FOR CANCELLATION OF COBRA COVERAGE

If you are currently receiving COBRA coverage for which a premium has yet to be paid and wish to cancel your further COBRA coverage, you may refrain from paying the COBRA premium for the coverage period that begins when you no longer want COBRA coverage. For example, if a qualified beneficiary is receiving COBRA coverage, has paid premiums through December 31, and wishes to cancel further COBRA coverage effective January 1, the qualified beneficiary would simply not pay the premium for the January coverage period. If the January premium is not paid by the expiration of the applicable grace period (i.e., January 31), the qualified beneficiary's COBRA coverage would cancel automatically on December 31.

ADDITIONAL NOTICE PROCEDURES FOR A NOTICE OF CHANGE OF ADDRESS

To protect your and your family's rights, it is important that you keep WageWorks informed of the current addresses of all qualified beneficiaries under the Plan. You should also keep a copy, for your records, of any notices you send to the Plan Administrator and/or WageWorks.

If your address or the address of a family member changes during a period of COBRA coverage, you must immediately notify WageWorks in writing following the notice procedures described above.

HEALTH INSURANCE MARKETPLACE AND OTHER COVERAGE OPTIONS

HEALTH INSURANCE MARKETPLACE

The Marketplace offers "one-stop shopping" to find and compare private health insurance options. In the Marketplace, you could be eligible for a new kind of tax credit that lowers your monthly premiums and cost-sharing reductions (amounts that lower your out-of-pocket costs for deductibles, coinsurance, and copayments) right away, and you can see what your premium, deductibles, and out-of-pocket costs will be before you make a decision to enroll. Through the Marketplace, you'll also learn if you qualify for free or low-cost coverage from Medicaid or the Children's Health Insurance Program (CHIP). You can access the Marketplace for your state at www.HealthCare.gov.

Coverage through the Marketplace may cost less than COBRA coverage. Being offered COBRA coverage won't limit your eligibility for coverage or for a tax-credit through the Marketplace (unless you are a current employee and the COBRA coverage is affordable and provides minimum value).

ENROLLING IN MARKETPLACE COVERAGE

01051050060606



You always have 60 days from the time you lose your job-based coverage to enroll in the Marketplace. That is because losing your job-based coverage is a "special enrollment" event. After 60 days your special enrollment period will end and you may not be able to enroll, so you should take action right away. In addition, during what is called an "open enrollment" period, anyone can enroll in Marketplace coverage.

To find out more about enrolling in the Marketplace, such as when the next open enrollment period will be and what you need to know about qualifying events and special enrollment periods, visit www.HealthCare.gov.

SWITCHING FROM COBRA COVERAGE TO MARKETPLACE COVERAGE

If you sign up for COBRA coverage, you can switch to a Marketplace plan during a Marketplace open enrollment period. You can also end your COBRA coverage early and switch to a Marketplace plan if you have another qualifying event such as marriage or birth of a child through something called a "special enrollment period." NOTE: If you terminate your COBRA coverage early without another qualifying event, you will have to wait to enroll in Marketplace coverage until the next open enrollment period, and could end up without any health coverage in the interim.

Once you've exhausted your COBRA coverage and the coverage expires, you will be eligible to enroll in Marketplace coverage through a special enrollment period, even if Marketplace open enrollment has ended.

SWITCHING FROM MARKETPLACE COVERAGE TO COBRA

If you sign up for Marketplace coverage instead of COBRA coverage, you cannot switch to COBRA coverage after your election period ends under any circumstances.

ENROLLING IN ANOTHER GROUP HEALTH PLAN

You may be eligible to enroll in coverage under another group health plan (like a spouse's plan), if you request enrollment within no less than 30 days of the loss of coverage.

If you or your dependent chooses to elect COBRA coverage instead of enrolling in another group health plan for which you are eligible, you will have another opportunity to enroll in the other group health plan within 30 days of losing your COBRA coverage.

CHOOSING COVERAGE OPTIONS

When considering your options for health coverage, you may want to think about the following:

PREMIUMS

Your previous plan can charge up to 102 percent of total plan premiums for COBRA coverage. Other options, like coverage on a spouse's plan or through the Marketplace, may be less expensive.

PROVIDER NETWORKS

If you are currently receiving care or treatment for a condition, a change in your health coverage may affect your access to a particular health care provider. You may want to check to see if your current health care providers participate in a network as you consider options for health coverage.

DRUG FORMULARIES

If you are currently taking medication, a change in your health coverage may affect your costs for medication — and in some cases, your medication may not be covered by another plan. You may want to check to see if your current medications are listed in drug formularies for other health coverage.

SEVERANCE PAYMENTS

If you lost your job and received a severance package from your former employer, your former employer may have offered to pay some or all of your COBRA premium payments for a period of time. In this scenario, you may want to contact the Department of Labor at 1-866-444-3272 to discuss your options.

SERVICE AREAS

Some plans limit their benefits to specific service or coverage areas — so if you move to another area of the country, you may not be able to use your benefits. You may want to see if your plan has a service or coverage area, or other similar limitations.

OTHER COST-SHARING

In addition to premiums or contributions for health coverage, you probably pay copayments, deductibles, coinsurance, or other amounts as you use your benefits. You may want to check to see what the cost-sharing requirements are for other health coverage options. For example, one option may have much lower monthly premiums, but a much higher deductible and higher copayments.

FOR MORE INFORMATION

This notice does not fully describe COBRA coverage or other rights under the Plan. More information about COBRA coverage and your rights under the Plan is available to you in your SPD or from the Plan Administrator.

If you have questions about claims for reimbursement, please contact your sponsoring employer, group health insurance carrier or the claims office indicated on your claim forms or insurance card.

For additional information about your COBRA rights and obligations under federal law, please review the Plan's SPD or contact WageWorks at 1-877-722-2667 or the above address.

For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), the Patient Protection and Affordable Care Act, and other laws affecting group health plans, visit the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) website at www.dol.gov/ebsa or call their toll-free number at 1-866-444-3272. For more information about health insurance options available through the Marketplace, and to locate an assister in your area to whom you can speak about the different options, visit www.HealthCare.gov.

01051050060607





WageWorks, Inc.
P.O. Box 226101
Dallas, TX 75222-6101

Account Number: 0126021853

CLC21 - EN

Date of Notice: 10/1/2019

Dear Erica S Silberstein,

Enclosed please find the document(s) you requested.

If you have any questions or concerns, please call us at 1-877-722-2667 or fax to 877-353-2948. You can also register on our Web site at mybenefits.wageworks.com and send us communication via our on-line web case system.

Sincerely,
WageWorks

EXHIBIT “B”

Model COBRA Continuation Coverage Election Notice
(For use by single-employer group health plans)

IMPORTANT INFORMATION: COBRA Continuation Coverage and other Health Coverage Alternatives

[Enter date of notice]

Dear: [Identify the qualified beneficiary(ies), by name or status]

This notice has important information about your right to continue your health care coverage in the [enter name of group health plan] (the Plan), as well as other health coverage options that may be available to you, including coverage through the Health Insurance Marketplace at www.HealthCare.gov or call 1-800-318-2596. You may be able to get coverage through the Health Insurance Marketplace that costs less than COBRA continuation coverage. Please read the information in this notice very carefully before you make your decision. If you choose to elect COBRA continuation coverage, you should use the election form provided later in this notice.

Why am I getting this notice?

You're getting this notice because your coverage under the Plan will end on [enter date] due to [check appropriate box]:

- | | |
|--|---|
| <input type="checkbox"/> End of employment | <input type="checkbox"/> Reduction in hours of employment |
| <input type="checkbox"/> Death of employee | <input type="checkbox"/> Divorce or legal separation |
| <input type="checkbox"/> Entitlement to Medicare | <input type="checkbox"/> Loss of dependent child status |

Federal law requires that most group health plans (including this Plan) give employees and their families the opportunity to continue their health care coverage through COBRA continuation coverage when there's a "qualifying event" that would result in a loss of coverage under an employer's plan.

What's COBRA continuation coverage?

COBRA continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries who aren't getting continuation coverage. Each "qualified beneficiary" (described below) who elects COBRA continuation coverage will have the same rights under the Plan as other participants or beneficiaries covered under the Plan.

Who are the qualified beneficiaries?

Each person ("qualified beneficiary") in the category(ies) checked below can elect COBRA continuation coverage:

- Employee or former employee
- Spouse or former spouse
- Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
- Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

Are there other coverage options besides COBRA Continuation Coverage?

Yes. Instead of enrolling in COBRA continuation coverage, there may be other more affordable coverage options for you and your family through the Health Insurance Marketplace, Medicaid, or other group health plan coverage options (such as a spouse’s plan) through what is called a “special enrollment period.” Some of these options may cost less than COBRA continuation coverage.

You should compare your other coverage options with COBRA continuation coverage and choose the coverage that is best for you. For example, if you move to other coverage you may pay more out of pocket than you would under COBRA because the new coverage may impose a new deductible.

When you lose job-based health coverage, it’s important that you choose carefully between COBRA continuation coverage and other coverage options, because once you’ve made your choice, it can be difficult or impossible to switch to another coverage option.

If I elect COBRA continuation coverage, when will my coverage begin and how long will the coverage last?

If elected, COBRA continuation coverage will begin on *[enter date]* and can last until *[enter date]*.

[Add, if appropriate: You may elect any of the following options for COBRA continuation coverage: [list available coverage options].

Continuation coverage may end before the date noted above in certain circumstances, like failure to pay premiums, fraud, or the individual becomes covered under another group health plan.

Can I extend the length of COBRA continuation coverage?

If you elect continuation coverage, you may be able to extend the length of continuation coverage if a qualified beneficiary is disabled, or if a second qualifying event occurs. You must notify *[enter name of party responsible for COBRA administration]* of a disability or a second qualifying event within a certain time period to extend the period of continuation coverage. If you don’t provide notice of a disability or second qualifying event within the required time period, it will affect your right to extend the period of continuation coverage.

For more information about extending the length of COBRA continuation coverage visit <http://www.dol.gov/ebsa/publications/cobraemployee.html>.

How much does COBRA continuation coverage cost?

COBRA continuation coverage will cost: *[enter amount each qualified beneficiary will be required to pay for each option per month of coverage and any other permitted coverage periods.]*

Other coverage options may cost less. If you choose to elect continuation coverage, you don't have to send any payment with the Election Form. Additional information about payment will be provided to you after the election form is received by the Plan. Important information about paying your premium can be found at the end of this notice.

You may be able to get coverage through the Health Insurance Marketplace that costs less than COBRA continuation coverage. You can learn more about the Marketplace below.

What is the Health Insurance Marketplace?

The Marketplace offers “one-stop shopping” to find and compare private health insurance options. In the Marketplace, you could be eligible for a new kind of tax credit that lowers your monthly premiums and cost-sharing reductions (amounts that lower your out-of-pocket costs for deductibles, coinsurance, and copayments) right away, and you can see what your premium, deductibles, and out-of-pocket costs will be before you make a decision to enroll. Through the Marketplace you'll also learn if you qualify for free or low-cost coverage from Medicaid or the Children's Health Insurance Program (CHIP). You can access the Marketplace for your state at www.HealthCare.gov.

Coverage through the Health Insurance Marketplace may cost less than COBRA continuation coverage. Being offered COBRA continuation coverage won't limit your eligibility for coverage or for a tax credit through the Marketplace.

When can I enroll in Marketplace coverage?

You always have 60 days from the time you lose your job-based coverage to enroll in the Marketplace. That is because losing your job-based health coverage is a “special enrollment” event. **After 60 days your special enrollment period will end and you may not be able to enroll, so you should take action right away.** In addition, during what is called an “open enrollment” period, anyone can enroll in Marketplace coverage.

To find out more about enrolling in the Marketplace, such as when the next open enrollment period will be and what you need to know about qualifying events and special enrollment periods, visit www.HealthCare.gov.

If I sign up for COBRA continuation coverage, can I switch to coverage in the Marketplace? What about if I choose Marketplace coverage and want to switch back to COBRA continuation coverage?

If you sign up for COBRA continuation coverage, you can switch to a Marketplace plan during a Marketplace open enrollment period. You can also end your COBRA continuation coverage early and switch to a Marketplace plan if you have another qualifying event such as marriage or birth of a child through something called a “special enrollment period.” But be careful though - if you terminate your COBRA continuation coverage early without another qualifying event, you’ll have to wait to enroll in Marketplace coverage until the next open enrollment period, and could end up without any health coverage in the interim.

Once you’ve exhausted your COBRA continuation coverage and the coverage expires, you’ll be eligible to enroll in Marketplace coverage through a special enrollment period, even if Marketplace open enrollment has ended.

If you sign up for Marketplace coverage instead of COBRA continuation coverage, you cannot switch to COBRA continuation coverage under any circumstances.

Can I enroll in another group health plan?

You may be eligible to enroll in coverage under another group health plan (like a spouse’s plan), if you request enrollment within 30 days of the loss of coverage.

If you or your dependent chooses to elect COBRA continuation coverage instead of enrolling in another group health plan for which you’re eligible, you’ll have another opportunity to enroll in the other group health plan within 30 days of losing your COBRA continuation coverage.

What factors should I consider when choosing coverage options?

When considering your options for health coverage, you may want to think about:

- Premiums: Your previous plan can charge up to 102% of total plan premiums for COBRA coverage. Other options, like coverage on a spouse’s plan or through the Marketplace, may be less expensive.
- Provider Networks: If you’re currently getting care or treatment for a condition, a change in your health coverage may affect your access to a particular health care provider. You may want to check to see if your current health care providers participate in a network as you consider options for health coverage.
- Drug Formularies: If you’re currently taking medication, a change in your health coverage may affect your costs for medication – and in some cases, your medication may not be covered by another plan. You may want to check to see if your current medications are listed in drug formularies for other health coverage.
- Severance payments: If you lost your job and got a severance package from your former employer, your former employer may have offered to pay some or all of your COBRA payments for a period of time. In this scenario, you may want to contact the Department of Labor at 1-866-444-3272 to discuss your options.
- Service Areas: Some plans limit their benefits to specific service or coverage areas – so if you move to another area of the country, you may not be able to use your benefits. You may want to see if your plan has a service or coverage area, or other similar limitations.

- **Other Cost-Sharing:** In addition to premiums or contributions for health coverage, you probably pay copayments, deductibles, coinsurance, or other amounts as you use your benefits. You may want to check to see what the cost-sharing requirements are for other health coverage options. For example, one option may have much lower monthly premiums, but a much higher deductible and higher copayments.

For more information

This notice doesn't fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your summary plan description or from the Plan Administrator.

If you have questions about the information in this notice, your rights to coverage, or if you want a copy of your summary plan description, contact [*enter name of party responsible for COBRA administration for the Plan, with telephone number and address*].

For more information about your rights under the Employee Retirement Income Security Act (ERISA), including COBRA, the Patient Protection and Affordable Care Act, and other laws affecting group health plans, visit the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) website at <http://www.dol.gov/ebsa> or call their toll-free number at 1-866-444-3272. For more information about health insurance options available through the Health Insurance Marketplace, and to locate an assister in your area who you can talk to about the different options, visit www.HealthCare.gov.

Keep Your Plan Informed of Address Changes

To protect your and your family's rights, keep the Plan Administrator informed of any changes in your address and the addresses of family members. You should also keep a copy of any notices you send to the Plan Administrator.

COBRA Continuation Coverage Election Form

Instructions: To elect COBRA continuation coverage, complete this Election Form and return it to us. Under federal law, you have 60 days after the date of this notice to decide whether you want to elect COBRA continuation coverage under the Plan.

Send completed Election Form to: *[Enter Name and Address]*

This Election Form must be completed and returned by mail *[or describe other means of submission and due date]*. If mailed, it must be post-marked no later than *[enter date]*.

If you don't submit a completed Election Form by the due date shown above, you'll lose your right to elect COBRA continuation coverage. If you reject COBRA continuation coverage before the due date, you may change your mind as long as you submit a completed Election Form before the due date. However, if you change your mind after first rejecting COBRA continuation coverage, your COBRA continuation coverage will begin on the date you submit the completed Election Form.

Read the important information about your rights included in the pages after the Election Form.

I (We) elect COBRA continuation coverage in the *[enter name of plan]* (the Plan) listed below:

Name	Date of Birth	Relationship to Employee	SSN (or other identifier)
------	---------------	--------------------------	---------------------------

a. _____
[Add if appropriate: Coverage option elected: _____]

b. _____
[Add if appropriate: Coverage option elected: _____]

c. _____
[Add if appropriate: Coverage option elected: _____]

Signature

Date

Print Name

Relationship to individual(s) listed above

Print Address

Telephone number

Important Information About Payment

First payment for continuation coverage

You must make your first payment for continuation coverage no later than 45 days after the date of your election (this is the date the Election Notice is postmarked). If you don't make your first payment in full no later than 45 days after the date of your election, you'll lose all continuation coverage rights under the Plan. You're responsible for making sure that the amount of your first payment is correct. You may contact *[enter appropriate contact information, e.g., the Plan Administrator or other party responsible for COBRA administration under the Plan]* to confirm the correct amount of your first payment.

Periodic payments for continuation coverage

After you make your first payment for continuation coverage, you'll have to make periodic payments for each coverage period that follows. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due *[enter due day for each monthly payment]* for that coverage period. *[If Plan offers other payment schedules, enter with appropriate dates: You may instead make payments for continuation coverage for the following coverage periods, due on the following dates:].* If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan *[select one: will or will not]* send periodic notices of payments due for these coverage periods.

Grace periods for periodic payments

Although periodic payments are due on the dates shown above, you'll be given a grace period of 30 days after the first day of the coverage period *[or enter longer period permitted by Plan]* to make each periodic payment. You'll get continuation coverage for each coverage period as long as payment for that coverage period is made before the end of the grace period. *[If Plan suspends coverage during grace period for nonpayment, enter and modify as necessary: If you pay a periodic payment later than the first day of the coverage period to which it applies, but before the end of the grace period for the coverage period, your coverage will be suspended as of the first day of the coverage period and then retroactively reinstated (going back to the first day of the coverage period) when the periodic payment is received. This means that any claim you submit for benefits while your coverage is suspended may be denied and may have to be resubmitted once your coverage is reinstated.]*

If you don't make a periodic payment before the end of the grace period for that coverage period, you'll lose all rights to continuation coverage under the Plan.

Your first payment and all periodic payments for continuation coverage should be sent to:

[enter appropriate payment address]

CIVIL COVER SHEET

JS 44 (Rev. 06/17)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ERIKA SILBERSTEIN, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Marc R. Edelman, Esq. Morgan & Morgan, P.A.
201 N. Franklin Street, 7th Floor
Tampa, FL 33602 813-223-5505

DEFENDANTS

PETSMART, INC., A Foreign Profit Corporation

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA")
 Brief description of cause:
 Violation of COBRA

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 11/12/2019 SIGNATURE OF ATTORNEY OF RECORD: /s/ Marc R. Edelman, Esq.

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Middle District of Florida

ERIKA SILBERSTEIN, individually and on behalf
of all others similarly situated

Plaintiff(s)

v.

PETSMART, INC.,
A Foreign Profit Corporation

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

PETSMART, INC.
c/o Corporate Creations Network, Inc., it's Registered Agent
11380 Prosperity Farms Road, #221E
Palm Beach Gardens, FL 33410

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Marc R. Edelman, Esq.
Morgan & Morgan, P.A.
201 N. Franklin Street, Suite 700
Tampa, Florida 33602

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: