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Fact Sheet: COBRA Premium Reduction

U.S. Department of Labor Employee Benefits Security Administration
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The American Recovery and Reinvestment Act of 2009 (ARRA), as amended on December 19, 2009 by the Department of Defense Appropriations Act, 2010 (2010 DOD Act) provides for premium reductions for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA. Eligible individuals pay only 35 percent of their COBRA premiums and the remaining 65 percent is reimbursed to the coverage provider through a tax credit. To qualify, individuals must experience a COBRA qualifying event that is the involuntary termination of a covered employee's employment. The involuntary termination must occur during the period that began September 1, 2008 and ends on February 28, 2010. The premium reduction applies to periods of health coverage that began on or after February 17, 2009 and lasts for up to 15 months.

What is COBRA?

COBRA gives workers and their families who lose their health benefits the right to purchase group health coverage provided by the plan under certain circumstances.

If the employer continues to offer a group health plan, the employee and his/her family can retain their group health coverage for up to 18 months by paying group rates. The COBRA premium may be higher than what the individual was paying while employed but generally the cost is lower than that for private, individual health insurance coverage.

The plan administrator must notify affected employees of their right to elect COBRA. The employee and his/her family each have 60 days to elect the COBRA coverage; otherwise, they lose all rights to COBRA benefits.

COBRA generally does not apply to plans sponsored by employers with fewer than 20 employees. Many States have similar requirements for insurance companies that provide coverage to small employers. The premium reduction is available for insurers covered by these State laws.

Changes Regarding COBRA Continuation Coverage Under ARRA, as amended by the 2010 DOD Act

The 2010 DOD Act extended the COBRA premium reduction eligibility period for two months until February 28, 2010 and increased the maximum period for receiving the subsidy for an additional six months (from nine to 15 months).

In addition, individuals who had reached the end of the reduced premium period before the legislation extended it to 15 months will have an extension of their grace period to pay the reduced premium. To continue their coverage they must pay the 35 percent of premium costs by February 17, 2010, or, if later, 30 days after notice of the extension is provided by their plan administrator.

Individuals who lost their subsidy and paid the full 100 percent premium in December 2009 should contact their plan administrator or employer sponsoring the plan to discuss a credit for future months of coverage or a reimbursement of the overpayment.

Eligibility for the Premium Reduction: The premium reduction for COBRA continuation coverage is available to "assistance eligible individuals".

An "assistance eligible individual" is the employee or a member of his/her family who:

- has a qualifying event for continuation coverage under COBRA or a State law that provides comparable continuation coverage (for example, so-called "mini-COBRA" laws) that is the employee's involuntary termination at any point from September 1, 2008 through February 28, 2010; and
- elects COBRA coverage timely.

Those who are eligible for other group health coverage (such as a spouse's plan) or Medicare are not eligible for the premium reduction. There is no premium reduction for premiums paid for periods of coverage that began prior to February 17, 2009.

Assistance eligible individuals who pay 35 percent of their COBRA premium are treated as having paid the full amount. The premium reduction (65 percent of the full premium) is reimbursable to the employer, insurer or health plan as a credit against certain employment taxes.

Period of Coverage

The premium reduction applies to periods of coverage beginning on or after February 17, 2009. A period of coverage is a month or shorter period for which the plan charges a COBRA premium. The premium reduction for an individual ends upon eligibility for other group coverage (or Medicare), after 15 months of the reduction, or when the maximum period of COBRA coverage ends, whichever occurs first. Individuals paying reduced COBRA premiums must inform their plans if they become eligible for coverage under another group health plan or Medicare.

Notice Requirements

ARRA, as amended, mandates the provision of certain notices. As part of the COBRA election notice, plan administrators must provide information about the premium reduction to all individuals who have COBRA qualifying events from September 1, 2008 through February 28, 2010.

Plan administrators must also provide notice about the changes made to the premium reduction provisions of ARRA by the 2010 DOD Act to individuals who have already been provided a COBRA election notice (unless the election notice included the updated premium reduction information).

- Individuals who are "assistance eligible individuals" must be provided this notice by February 17, 2010;
- Individuals who experience a termination of employment on or after October 31, 2009 and lose health coverage must be provided this notice within the normal timeframes for providing continuation coverage notices; and
- Individuals who are in a "transition period" (a period that begins immediately after the end of the nine months of premium reduction in effect under ARRA before the amendments made by the 2010 DOD Act, as long as those nine months ended before December 19, 2009 and the premium reduction provisions of the 2010 DOD Act would apply due to the extension from nine to 15 months) must be provided this notice within 60 days of the first day of the transition period.

Expedited Review of Denials of Premium Reduction: Individuals who are denied treatment as assistance eligible individuals and thus are denied eligibility for the premium reduction (whether by their plan, employer or insurer) may request an expedited review of the denial by the U.S. Department of Labor. The Department must make a determination within 15 business days of receipt of a completed request for review. The official application form is available at [.dol.gov/COBRA](http://dol.gov/COBRA) and can be filed online or submitted by fax or mail.

Switching Benefit Options: If an employer offers additional coverage options to active employees, the employer may (but is not required to) allow assistance eligible individuals to switch the coverage options they had when they became eligible for COBRA. To retain eligibility for the ARRA premium reduction, the different coverage must have the same or lower premiums as the individual's original coverage. The different coverage cannot be coverage that provides only dental, vision, a health flexible spending account, or coverage for treatment that is furnished in an on-site facility maintained by the employer.

Income limits: If an individual's modified adjusted gross income for the tax year in which the premium assistance is received exceeds \$145,000 (or \$290,000 for joint filers), then the amount of the premium reduction during the tax year must be repaid. For taxpayers with adjusted gross income between \$125,000 and \$145,000 (or \$250,000 and \$290,000 for joint filers), the amount of the premium reduction that must be repaid is reduced proportionately. Individuals may permanently waive the right to premium reduction but may not later obtain the premium reduction if their adjusted gross incomes end up below the limits. If you think that your income may exceed the amounts above, consult your tax preparer or contact the IRS at [.irs.gov](http://irs.gov).

H. R. 3326-64

SEC. 1010. (a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended by striking "December 31, 2009" and inserting "February 28, 2010".

(b) EXTENSION OF MAXIMUM DURATION OF ASSISTANCE.—Subsection (a)(2)(A)(ii)(I) of such section is amended by striking "9 months" and inserting "15 months".

(c) RULES RELATED TO 2009 EXTENSION.—Subsection (a) of such section is further amended by adding at the end the following:

"(16) RULES RELATED TO 2009 EXTENSION.—

"(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual's transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

"(i) such individual was covered under the COBRA continuation coverage to which such premium relates for the period of coverage immediately preceding such transition period, and

"(ii) such individual pays, not later than 60 days after the date of the enactment of this paragraph (or, if later, 30 days after the date of provision of the notification required under subparagraph (D)(ii)), the amount of such premium, after the application of paragraph (1)(A).

"(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual's transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

"(C) TRANSITION PERIOD.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'transition period' means, with respect to any assistance eligible individual, any period of coverage if—

"(I) such period begins before the date of the enactment of this paragraph, and

"(II) paragraph (1)(A) applies to such period by reason of the amendment made by section 1010(b) of the Department of Defense Appropriations Act, 2010.

"(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

"(D) NOTIFICATION.—

"(i) IN GENERAL.—In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to COBRA continuation coverage on or after such date, the administrator of the group health plan (or other entity) involved shall provide an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, within 60 days after the date of the enactment of such Act or, in

the case of a qualifying event occurring after such date of enactment, consistent with the timing of notifications under paragraph (7)(A).

"(ii) TO INDIVIDUALS WHO LOST ASSISTANCE.—In the case of an assistance eligible individual described in subparagraph (A)(i) who did not timely pay the premium for any period of coverage during such individual's transition period or paid the premium for such period without regard to paragraph (1)(A), the administrator of the group health plan (or other entity) involved shall provide to such individual, within the first 60 days of such individual's transition period, an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, including information on the ability under subparagraph (A) to make retroactive premium payments with respect to the transition period of the individual in order to maintain COBRA continuation coverage.

"(iii) APPLICATION OF RULES.—Rules similar to the rules of paragraph (7) shall apply with respect to notifications under this subparagraph".

(d) CLARIFICATION THAT ELIGIBILITY AND NOTICE IS BASED ON TIMING OF QUALIFYING EVENT.—Subsection (a) of such section is amended—

(1) in paragraph (3)(A)—

(A) by striking "at any time" and inserting "such qualified beneficiary is eligible for COBRA continuation coverage related to a qualifying event occurring"; and

(B) by striking ", such qualified beneficiary is eligible for COBRA continuation coverage"; and

(2) in paragraph (7)(A), by striking "become entitled to elect COBRA continuation coverage" and inserting "have a qualifying event relating to COBRA continuation coverage".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 to which they relate.

(f) EMERGENCY DESIGNATIONS.—

(1) IN GENERAL.—Amounts in this section are designated as emergency requirements and necessary to meet emergency needs pursuant to sections 403 and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(2) PAYGO.—All applicable provisions in this section are designated as an emergency for purposes of pay-as-you-go principles.