



## American Recovery & Reinvestment Act of 2009

This document contains a brief description of the changes to COBRA due to American Recovery & Reinvestment Act of 2009.

### Effective Date of New Law

- Available for premium assistance for a “period of coverage” beginning on or after the date of enactment of February 17, 2009
- “Period of coverage” is the time period on which premiums are charged. Typically this is monthly coverage.
- All COBRAToday Plans will have the first date of assistance availability effective March 1, 2009 as the first period of coverage after the date of enactment.

### Coverage Availability

- Continuation coverage is available for health plans as follows:
  - Medical Plans
  - Dental Plans
  - Visions Plans
  - HRA Plans
  - Prescription Only Plans
- Continuation coverage is **not** available for the following:
  - Flexible Spending Arrangements under a Code Section 125 cafeteria plan

### State Continuation

- State continuation plans providing comparable coverage to Federal COBRA are included

### Premium Assistance Availability

- Participating Qualified Beneficiary (PQB) COBRA premium reduction by 65%
  - PQB will pay 35% of the total premiums including the 2% administration fee
  - Employer will pay 65% of the total premiums including the 2% administration fee
  - Example:

Monthly premium cost	\$1,000
2% Admin fee	<u>\$20</u>
Total premium due	\$1,020

PQB pays (35%)	\$357
Employer pays (65%)	\$663

- Maximum premium assistance will last 9 months

### Premium Assistance Termination

- Premium Assistance can terminate for several reasons. These reasons include:
  - 9 months after the first day of the first month of coverage period
  - The date following the expiration of the maximum coverage period
  - The date following expiration of the period of coverage that would have been required if COBRA had been elected
  - Eligibility for coverage under another Group Health Plan or Medicare unless the coverage is only for dental and vision services.
    - Does not require election as a reason for premium assistance termination, only eligibility.
    - Eligibility also includes eligibility to enroll in spouse’s Group Health Plan
    - If over age 65 at the time of the Qualifying Event, subsidy will not be offered due to Medicare eligibility

### **Assistance Eligible Individuals (AEI)**

- An Assistance Eligible Individual is a Qualified Beneficiary who:
  - Experienced a Qualifying Event on or after September 1, 2008 through December 31, 2009 and,
  - Elects COBRA and,
  - Has a Qualifying Event of Involuntary Termination

### **High-Income Individuals**

- For taxpayers whose income exceeds \$125,000 for single, \$250,000 for joint return, the subsidy would be considered taxable income for the year in which the subsidy was received.
- PQB must make determination upon receiving COBRA continuation paperwork if they wish to receive the subsidy or waive the subsidy dependent on their income.

### **Election Period**

- Qualified Beneficiaries who had a Qualifying Event September 1, 2008 or after but either did not elect or stopped paying premiums are eligible for extended election period.
- Coverage for those individuals, if elected during special election period, would begin March 1, 2009. There is no reach back to cover months previous to that.
- The extended election period ends 60 days after which the notification of extended election period is sent to the individual.
- Coverage will not extend beyond the COBRA coverage that they would have been eligible for if they had elected COBRA coverage from the start of their loss of coverage.

### **First or Second Premium Payment**

- If the Assistance Eligible Individual pays the full premium for March or April, the employer must reimburse or provide a credit to the AEI that reduces future premium payments.
- The employer must reimburse within 60 days if it is believed that the credit will not be used within 180 days.

### **Subsidy as Part of a Severance Agreement**

- If employer subsidizes all or part of an involuntary terminated employee's COBRA premiums, that amount is not eligible to be claimed as a deduction on the payroll taxes.
- If the employer subsidizes part of an involuntary terminated employee's COBRA premiums, the Assistance Eligible Individual (AEI) is responsible for only paying 35% of their portion.
  - Example: Plan charges \$1,020 (includes 2% admin fee) monthly premium
  - As part of a severance agreement, employer pays \$510 of Qualified Beneficiary's COBRA premium. QB is charged \$510.
  - QB must pay 35% of \$510 or \$178.50
  - Employer would then pay \$510 as part of the severance agreement and \$331.50 as part of the COBRA stimulus subsidy. Employer would only be able to claim \$331.50 on their payroll taxes.

### **Premium Reimbursement**

- Premium reimbursements are treated as payment of payroll tax
- IRS Form 941
- There is no reimbursement until the Assistance Eligible Individual pays their portion of the premium.
- If premium amount exceeds liability for payroll taxes, the employer can apply to the government to receive credit or refund as an overpayment of payroll taxes.

### **Plan Enrollment Options**

- If permitted by employer, Assistance Eligible Individual may enroll in different coverage as long as the coverage is **not**:
  - Coverage that has a premium that exceeds the premium for which they were covered at the time of the Qualifying Event
  - Coverage that is dental or vision only
  - Coverage that is a Flexible Spending Arrangement
  - Coverage that is a on-site medical facility