

## **COBRA Eligible Groups (20 or more employees)**

The COBRA Premium Subsidy provides a 65% federal subsidy of COBRA premiums for eligible individuals for a maximum of 9 months. The subsidy does not extend the period of COBRA coverage that would otherwise apply to that qualified beneficiary from the original qualifying event date. The subsidy is calculated based on the COBRA premium that the eligible individual would have been required to pay.

A qualified beneficiary is eligible for the COBRA subsidy if he or she is involuntarily terminated from employment on or after September 1, 2008 through December 31, 2009, including a dependent that makes an independent election of the involuntary termination qualifying event.

Those qualified beneficiaries who elected COBRA after an involuntary termination prior to the enactment date (February 17, 2009) and who meet the eligibility requirements may receive the subsidy for the first period of coverage on or after February 17, 2009 but there is no retroactivity of premiums prior to February 17, 2009.

A qualified beneficiary is eligible if they:

- Were terminated on or after September 1, 2008 through December 31, 2009. Plan administrators may provide notices separately or along with notices they provide following a COBRA qualifying event. This notice must go to all individuals whether they have COBRA coverage or not, who had a qualifying event from September 1, 2008 through December 31, 2009. Individuals eligible for the special COBRA election period also must receive a notice informing them of this opportunity. This notice must be provided within 60 days following February 17, 2009.
- Do not have access to any other medical coverage, including coverage under a spouse's group health plan or Medicare
- Meet the income requirements as defined in the Act.
- Do not qualify for the Health Coverage Tax Credit Program under the Trade Assistance Adjustment Act.

If an individual elects the subsidy, he or she is required to notify the group health plan if he/she no longer qualifies. Penalties may be assessed to an individual if there is failure to do so.

**Special Election Period.** A notice must be provided within 60 days of enactment (April 17, 2009) to all individuals who terminated employment during the applicable time period. The special 60-day election period, begins on the date of enactment (February 17, 2009) and ends 60 days after the notice of the special election period, to be provided to the qualified beneficiary who is eligible for a reduced premium and who has not elected COBRA as of February 17, 2009. The coverage elected under this special

election right begins with the first period of coverage beginning on or after the date of enactment (February 17, 2009) and is not retroactive to the original date that benefits terminated under the plan. Any resulting gap in coverage beginning with the qualifying event and ending on the effective date of the COBRA subsidized period will not be counted as a break in coverage for purposes of the 63 day rule under HIPAA's portability rules. This special election period opportunity also is extended to a qualified beneficiary who elected COBRA coverage but who is no longer enrolled on the date of enactment. For example, a qualified beneficiary who was terminated from COBRA coverage because he/she was unable to continue paying the premium would be extended the special election period.

High Income Exclusion. If the modified adjusted gross income of a participant exceeds \$125,000 a year or a family's adjusted gross income exceeds \$250,000, their income tax will be raised by the premium reduction amount.

Impact on Employers COBRA compliance. Employers will be required to:

- Send a notice to involuntarily terminated employees since September 1, 2008 with a description of their rights and obligations regarding the subsidy.
- Update all COBRA forms and enrollment materials to reflect the changes (or if you currently work with a COBRA administrator, coordinate with the Administrator to send out notices and update forms.
- Take a full tax credit out of your payroll taxes for your expenditures associated with the subsidy.

Answers for Employers.

The COBRA subsidy amount is reimbursed by being claimed as a credit on the Form 941. The Form 941 has been revised to allow for this credit.

The credit is claimed on Line 12a of the January 2009 revision of the Form 941, which was posted on the IRS website on February 20, 2009. The Form 941 filer also needs to include the number of individuals provided COBRA premium assistance on Line 12b.

Other information relating to the COBRA subsidy to be submitted with the Form 941. None. However, those claiming the credit must maintain supporting documentation for the credit claimed. Such documentation includes but is not limited to:

- Information on receipt, including dates and amounts, of assistance eligible individuals' 35% share of the premium;
- In the case of an insured plan, copy of invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA;
- In the case of a self-insured plan, proof of the premium amount and proof of the coverage provided to the assistance eligible individuals;

- Attestation of involuntary termination, including the date of the involuntary termination (which must be during the period from September 1, 2008 to December 31, 2009) for each covered employee whose involuntary termination is the basis for eligibility for the subsidy;
- Proof of each assistance eligible individual's eligibility for COBRA coverage at any time during the period from September 1, 2008 through December 31, 2009 and election of COBRA coverage;
- A record of the social security numbers of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee and whether the subsidy was for 1 individual or 2 or more individuals.
- Other documents necessary to verify the correct amount of reimbursement.

Further details/communications will be provided by carriers and COBRA plan administrators.

Websites for information on The American Recovery and Reinvestment Act of 2009:

[www.dol.gov](http://www.dol.gov) (*Updated model election forms now available*)

[www.irs.gov](http://www.irs.gov)

[www.ohioinsurance.gov](http://www.ohioinsurance.gov)