# New COBRA changes include premium subsidies

Some significant additions have been made to COBRA (the Consolidated Omnibus Budget Reconciliation Act) because of the American Recovery and Reinvestment Act signed into law by President Obama on February 17, 2009. This flyer provides an overview of these changes and how they may affect you and your employees.

## Premium subsidy

The additions to COBRA include a premium subsidy of 65 percent. That means that eligible individuals will pay only 35 percent of their COBRA premiums. The employer will pay the remaining 65 percent and will be reimbursed through a credit it receives against its payroll taxes. The premium subsidy applies to periods of health coverage beginning on or after February 17, 2009, and lasts for up to nine months. As you know, employers were previously allowed to charge COBRA enrollees up to 102 percent of the true cost of group health premiums, which average more than $1,000 per month. Individuals who have been paying full premiums for COBRA will not receive a rebate, but their payments will decrease.

## Who is eligible

The premium subsidy is available to "assistance-eligible individuals." An "assistance-eligible individual" is an individual or a member of his or her family who:

- is eligible for COBRA continuation coverage at any time between September 1, 2008, and December 31, 2009;
- elects COBRA coverage;
- is eligible for COBRA because of the individual's involuntary termination between September 1, 2008, and December 31, 2009.

## Who is not eligible

Not everyone who is COBRA-eligible is eligible for the premium subsidy. Those who are not eligible for the subsidy include:

- individuals eligible for other group health coverage (such as a spouse's plan) or Medicare;
- individuals involuntarily terminated prior to September 1, 2008, whether or not they elected COBRA;
- individuals terminated for gross misconduct.

## Income limits

There is no income limit for receiving the COBRA premium subsidy, but individuals who receive the premium subsidy may have to pay income tax on the premium subsidy they receive. Generally, a person whose adjusted gross income exceeds $125,000, or married individuals filing jointly whose adjusted gross income exceeds $250,000, will have their income taxes affected by the premium subsidy. Individuals should consult with a tax expert for specific advice about how the premium subsidy may affect their income taxes.

## Effective dates

The premium subsidy applies to health coverage beginning on or after February 17, 2009. For plans that charge for COBRA coverage on a calendar-month basis, the premium subsidy went into effect on March 1, 2009.

## Special COBRA election opportunity

Individuals involuntarily terminated from September 1, 2008, through February 16, 2009, who did not elect COBRA when it was first offered or who did elect COBRA but are no longer enrolled (for example because they were unable to continue paying the premium) have a new election opportunity. This election period began on February 17, 2009, and ends 60 days after the employer provides the required notice. This special election period does not extend the period of COBRA continuation coverage beyond the original maximum period (generally 18 months from the employee's involuntary termination). COBRA coverage elected in this special election period begins with the first period of coverage beginning on or after February 17, 2009.

This special election period opportunity does not apply to coverage sponsored by employers with fewer than 20 employees that is subject to State law.

## What you need to do

Employers must notify affected employees of their right to elect COBRA. The employee and his or her family each have 60 days to elect the COBRA coverage, otherwise they lose all rights to COBRA benefits. Employers must provide notification within 60 days of the February 17, 2009, enactment and no later than April 18, 2009.

## More information

For more information on the COBRA subsidy, please refer to the Department of Labor's "Fact Sheet: COBRA Premium Reduction" website at www.dol.gov.

*This is for general informational purposes only and is not to be taken as legal or tax advice. Please consult with your benefits specialist or attorney for legal or tax advice regarding COBRA.*

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