Order Code RL30626

Health Insurance Continuation Coverage Under COBRA

Updated March 29, 2005

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Summary

Most Americans with private group health insurance are covered through an employer, coverage that is generally provided to active employees and their families. A change in an individual's work or family status can result in loss of coverage. In 1985, Congress enacted legislation to provide temporary access to health insurance for qualified individuals who lose coverage due to such changes. Under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272), an employer with 20 or more employees must provide those employees and their families the option of continuing their coverage under the employer's group health insurance plan in the case of certain events. The coverage, usually for 18 months, can last up to 36 months, depending on the nature of the triggering event. The employer is not required to pay for this coverage; instead, the beneficiary can be required to pay up to 102% of the premium. Employers who fail to provide the continued health insurance option are subject to penalties. The Trade Act of 2002 provided a tax credit for the purchase of health insurance (including COBRA coverage) for workers certified as adversely affected by foreign trade.

In 1987, the Internal Revenue Service issued proposed regulations providing guidance for employers on COBRA. The regulations were finalized in February 1999 and January 2001. Final regulations regarding COBRA notification requirements were issued by the Department of Labor in May 2004.

Some maintain that in requiring employers to provide former employees with the option of continuing their health insurance coverage, COBRA has resulted in extra costs for employers (in the form of increased premiums for employers' group health insurance policies), as well as added administrative burdens. In contrast, others maintain that COBRA should be expanded to include new eligibility categories and longer coverage periods, so that more workers and their families have a source of group health insurance coverage during periods of job or family transitions. They argue that the financial and administrative burdens on employers have been exaggerated.

This report provides background information on continuation health insurance under COBRA and on the COBRA population. It will be updated as events warrant.

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Background

Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272) requires employers who offer health insurance to continue coverage for their employees under certain circumstances. Congress enacted the legislation to expand access to coverage for at least those people who became uninsured as a result of changes in their employment or family status. Although the law allows employers to charge 102% of the group plan premium, this can be much less expensive than coverage available in the individual insurance market. The law affects private sector employer group health plans through amendments to the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code. COBRA continuation coverage for employees of state and local governments is required under amendments to the Public Health Service Act. Continuation coverage similar to COBRA is provided to federal employees and employees of the Washington, DC, district government through the law authorizing the Federal Employees Health Benefits program under Title 5 of the U. S. Code.

Before enactment of COBRA, if an employee's job was terminated (voluntarily or involuntarily), the insurance offered by the employer also ceased, usually within 30 to 60 days. Women were especially vulnerable to loss of insurance coverage if they became unemployed, widowed, or divorced. Although some employers offered the option of buying into the group plan, there was no certainty of that option. In 1985, 10 states had laws requiring insurance policies sold in their states to include a continuation of coverage option for laid-off workers. However, self-insured employers (employers that assume the risk of the health care costs of their employees rather than using private insurers) were not regulated by these state-mandated benefit laws; self-insured plans are regulated at the federal level under ERISA. Health insurance coverage for these affected workers and their families was not consistently available.

COBRA Coverage

General Requirements

Under COBRA, employers must offer the option of continued health insurance coverage at group rates to qualified employees and their families who are faced with loss of coverage due to certain events. Coverage generally lasts 18 months but, depending on the circumstances, can last for longer periods. COBRA requirements also apply to self-insured firms. An employer must comply with COBRA even if it

does not contribute to the health plan; it need only maintain such a plan to come under the statute's continuation requirements.[1]

Covered Employers

COBRA covers all employers, with the following exceptions:

- Small employers. Employers with fewer than 20 employees are not covered under COBRA. An employer is considered to meet the small employer exception during a calendar year if on at least 50% of its typical business days during the preceding calendar year it had fewer than 20 employees.

- Church plans.

- Federal, state, and local governments. Although federal employees they are not covered under COBRA, since 1990 and employees of the Washington, DC, district government have been entitled to temporary continuation of coverage (TCC) under the Federal Employees Health Benefits Program (FEHB).[2] Continuation coverage for state and local employees is mandated under the Public Health Service Act with provisions very similar to COBRA's protections. See 42 U.S.C.§ 300bb-1 et seq.

Qualified Beneficiaries

In general, a qualified beneficiary is

- an employee covered under the group health plan who loses coverage due to termination of employment[3] or a reduction in hours;

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[1] On Feb. 3, 1999, the Internal Revenue Service (IRS) published final rules (64 *Federal Register* 5160-5188), effective Jan. 1, 2000, defining COBRA coverage requirements. Final rules addressing COBRA issues applying to business reorganizations, bankruptcy, and COBRA's interaction with the Family and Medical Leave Act were issued on Jan. 10, 2001 (66 *Federal Register* 1843-1859). Final rules addressing notification requirements were issued on May 24, 2004 (69 *Federal Register* 30083-30112).

[2] Some variations exist between COBRA and FEHB TCC. For example, there are different eligibility requirements under FEHB, there is no extended coverage for disabled individuals, and there are no bankruptcy provisions. However, the length of coverage and qualifying events under both plans are the same. For more information, see the *FEHB Handbook* at [http://www.opm.gov/insure/handbook/FEHB16.asp#TEMPORARY%20CONTINUATION%20OF%20COVERAGE].

[3] A termination of employment (for reasons other than gross misconduct) can be either voluntary or involuntary. Voluntary reasons include retirement, resignation, and failure to return to work after a leave of absence. Involuntary reasons include layoffs, firings, and the employer's bankruptcy under Chapter 11 of Title 11 of the U.S. Code. Strikes and walkouts might also trigger COBRA coverage if they result in a loss of health insurance coverage.

- a retiree who loses retiree health insurance benefits due to the former employer's bankruptcy;

- a spouse or dependent child of the covered employee who, on the day before the "qualifying event" (see below), was covered under the employer's group health plan; or

- any child born to or placed for adoption with a covered employee during the period of COBRA coverage.

Qualifying Events

Circumstances that trigger COBRA coverage are known as "qualifying events." A qualifying event must cause an individual to lose health insurance coverage. Losing coverage means ceasing to be covered under the same terms and conditions as those available immediately before the event. For example, if an employee is laid off or changes to part-time status resulting in a loss of health insurance benefits, this is a qualifying event. Or, if an employer requires retiring individuals to pay a higher premium for the same coverage they received immediately before retiring, the retirement can be a qualifying event even though coverage is not lost or benefits reduced. Events that trigger COBRA continuation coverage include

- termination or reduction in hours of employment (for reasons other than gross misconduct).

Spouses and dependent children can experience the following qualifying events leading to their loss of health insurance coverage:

- the death of the covered employee,

- divorce or legal separation from the employee,

- the employee's becoming eligible for Medicare, and

- the end of a child's dependency under a parent's health insurance policy.

Under the following circumstances, a covered employer must offer a retiring employee access either to COBRA or to a retiree plan that satisfies COBRA's requirements for benefits, duration, and premium:

- If a covered employer offers no retiree health plan, the retiring employee must be offered COBRA coverage.

- If the employer does offer a retiree health plan but it is different from the coverage the employee had immediately before retirement (for example, if the plan is only offered for six months or if the premium is higher than it was for the employee immediately before the retirement), the employer must offer the option of COBRA coverage in addition to the offer of the alternative retiree plan. If the

retiring employee opts for the alternative coverage and declines COBRA coverage, then she or he is no longer eligible for COBRA.

- If the employer's retiree health plan satisfies COBRA's requirements for benefits, premium, and duration, the employer is not required to offer a COBRA option upon the employee's retiring, and the coverage provided by the retiree plan can be counted against the maximum COBRA coverage period that applies to the retiree, spouse, and dependent children. If the employer terminates the plan before the maximum coverage period has expired, COBRA coverage must be offered for the remainder of the period.

- The only other access a retiree has to COBRA coverage is in the event that a former employer terminates the retiree health plan under a bankruptcy reorganization under Chapter 11. In this case, the coverage can continue until the death of the retiree. The retiree's spouse and dependent children may purchase COBRA coverage from the former employer for 36 months after the retiree's death.

Nature of COBRA Coverage

The continuation coverage must be identical to that provided to "similarly situated non-COBRA beneficiaries." The term "similarly situated" is intended to ensure that beneficiaries have access to the same options as those who have not experienced a qualifying event. For example, if the employer offers an open season for non-COBRA beneficiaries to change their health plan coverage, the COBRA beneficiary must also be able to take advantage of the open season. By the same token, COBRA continuation coverage can be terminated if an employer terminates health insurance coverage for all employees.

Duration of Coverage

The duration of COBRA coverage can vary, depending on the qualifying event.

- In general, when a covered employee experiences a termination or reduction in hours of employment, the continued coverage for the employee and the employee's spouse and dependent children must continue for 18 months.

- Retirees who lose retiree health insurance benefits due to the bankruptcy (a reorganization under Chapter 11) of their former employer may elect COBRA coverage that can continue until their death. The spouse and dependent children of the retiree may continue the coverage for an additional 36 months after the death of the retiree.

- For all the other qualifying events listed above (death of employee, divorce or legal separation from employee, employee's becoming eligible for Medicare, the end of a child's dependent status under the

parents' health policy), the coverage for the qualified beneficiaries must be continued for 36 months.

Different provisions apply to disabled individuals. If the Social Security Administration (SSA) makes a determination that the date of an individual's onset of disability occurred during the first 60 days of COBRA coverage or earlier,[4] the employee and the employee's spouse and dependents are eligible for an additional 11 months of continuation coverage. This is a total of 29 months from the date of the qualifying event (which must have been a termination or reduction in hours of employment). This provision was designed to provide a source of coverage while individuals wait for Medicare coverage to begin. After a determination of disability, there is a five-month waiting period for Social Security disability cash benefits and another 24-month waiting period for Medicare benefits. See "Paying for COBRA" section below regarding the premium for this additional 11 months.

Under some conditions, COBRA coverage can end earlier than the full term. Although coverage must begin on the date of the qualifying event, it can end on the earliest of the following:

- the first day for which timely payment of the premium is not made [Payment is timely if it is made within 30 days of the payment due date. Payment cannot be required before 45 days after the date of election (see below)];

- the date on which the employer ceases to maintain any group health plan;[5]

- the first day after the qualified beneficiary becomes actually covered (and not just eligible to be covered) under another employer's group health plan, unless the new plan excludes coverage for a preexisting condition;[6] or

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[4] In most cases, the SSA makes its disability determination later than within the first 60 days of COBRA coverage. However, the date of the disability onset can be set retroactively to a date within the first 60 days.

[5] A bankruptcy under Chapter 7 of Title 11of the U.S. Code would be such an instance. Chapter 7 bankruptcies (business liquidations) are distinct from Chapter 11 (reorganization) bankruptcies. Under Chapter 7, the employer goes out of existence. COBRA is provided through the employer; if there is no employer, there is no COBRA obligation. Under Chapter 11, the employer remains in business and must therefore honor his COBRA obligations.

[6] Under the Health Insurance Portability and Accountability Act (P.L. 104-191), the new health plan cannot impose a pre-existing condition limitation or exclusion longer than 12 months after the enrollment date. The new group plan must reduce the pre-existing condition limitation period by one month for every month the individual had creditable coverage under the previous plan or COBRA. If the individual has not had 12 months of such creditable coverage, the new plan can impose an appropriate limitation period. In this case, the individual may maintain COBRA coverage under the former employer's plan.

- the date the qualified beneficiary is entitled to Medicare benefits, if this condition is specified in the group health plan.

If a COBRA-covered beneficiary receiving coverage through a region-specific plan (such as a managed care organization) moves out of that area, the employer is required to provide coverage in the new area if this can be done under one of the employer's existing plans. For example, this might be possible if the employer maintains a self-insured plan, or if the employer's plan is through an insurer licensed in the new area to provide the same coverage available to the employer's similarly-situated non-COBRA employees. Further, if this same coverage would not be available in the new area, but the employer maintains another plan for employees who are *not* similarly-situated to the beneficiary (such as a plan offered to management or another group within the firm) that *would* be available in the new area, then that alternative coverage must be offered to the beneficiary. If, however, the only coverage offered by the employer is not available in the new area, the employer is not obliged to offer any other coverage to the relocating beneficiary.

COBRA Coverage and Medicare

COBRA requires that if a covered employee loses health insurance coverage upon becoming eligible for Medicare, the qualified family members become eligible for up to 36 months of COBRA coverage. If the employee is actively working, this is unlikely to occur. Medicare law requires that employers with 20 or more employees must offer workers over age 65 with current employment status (and the worker's spouse if family plans are offered) the same coverage as is made available to other employees. In these cases, the employer's plan is the primary payer of health claims and Medicare is the secondary payer. Similarly, large employers (those with 100 employees or more) must offer this coverage to disabled active workers. Employers of any size are the primary payers of health claims for Medicare-covered end-stage renal disease beneficiaries for the first 30 months of their coverage.

Retiree plans are not covered under the Medicare provisions, however, and they can be terminated when the retiree becomes eligible for Medicare. In this case, the retiree's covered family members would be eligible for 36 months of COBRA coverage. In addition, if a working aged employee becomes eligible for Medicare and subsequently experiences a qualifying event (e.g., retirement, termination of employment) that causes family members to lose coverage, the family members would be eligible for COBRA coverage for up to 36 months from the date on which the employee becomes eligible for Medicare. For example, if an employee becomes eligible for Medicare in January 2004 and then retires in January 2005, the covered family members would be eligible for COBRA for 24 months. However, no matter when the second qualifying event occurs, COBRA coverage for qualified family members can never be less than 18 months.

As stated in the previous section, employees who are receiving COBRA coverage can have that coverage terminated prior to the end of the 18-month term if they become eligible for Medicare (if the group health plan so specifies). This applies to individuals who become eligible for Medicare *after* they elect COBRA coverage. The employee's covered family members would be eligible for 36 months of COBRA coverage, dating from the beginning of the first qualifying event (i.e., the

termination of employment or reduction in hours that qualified the employee for COBRA coverage). If an active employee becomes eligible for Medicare and then later experiences a qualifying event, that employee may elect COBRA coverage for 18 months from the qualifying event.

Notice Requirements

Employers, employees, and the employer's health plan administrators all have to meet requirements for notifying each other regarding COBRA.

- At the time an employee first becomes covered under a health plan, the plan administrator must provide written notification to the employee and his or her spouse regarding COBRA rights if a qualifying event should occur.

If a qualifying event occurs, other notices are required.

- The employer must notify the plan administrator of the event within 30 days of the death of the employee, a termination, or reduction in hours, the employee's becoming entitled to Medicare, or the beginning of bankruptcy proceedings.

- Within 14 days of receiving the employer's notice, the plan administrator must notify, in writing, each covered employee and his or her spouse of their right to elect continued coverage.

- The employee must notify the employer or plan administrator within 60 days of a divorce or legal separation of a covered employee or a dependent child's ceasing to be a dependent of the covered employee under the policy.

- COBRA beneficiaries who are determined by the SSA to have been disabled within the first 60 days of COBRA coverage must notify the plan administrator of this determination in order to be eligible for the additional 11 months of coverage. They must provide this notice within 60 days of receiving the SSA's decision.

Elections

A qualified individual must choose whether to elect COBRA coverage within an election period. This period is 60 days from the *later of* two dates: the date coverage would be lost due to the qualifying event, or the date that the beneficiary is sent notice of his right to elect COBRA coverage. The beneficiary must provide the employer or plan administrator with a formal notice of election. Coverage is retroactive to the date of the qualifying event. The employee or other affected person may also waive COBRA coverage. If that waiver is then revoked within the election period, COBRA coverage must still be provided. However, coverage begins on the date of the revocation rather than the date of the qualifying event. The Trade

Adjustment Act of 2003 (P.L. 107-121) established a special election period for qualified individuals. (See page 12 for a discussion of the qualifications.)

Paying for COBRA

Employers are *not* required to pay for the cost of COBRA coverage. They are permitted to charge the covered beneficiary 100% of the premium (both the portion paid by the employee and the portion paid by the employer, if any), plus an additional 2% administrative fee. For disabled individuals who qualify for an additional 11 months of COBRA coverage, the employer may charge 150% of the premium for these months. The plan must allow a qualified beneficiary to pay for the coverage in monthly installments, although alternative intervals may also be offered.

Conversion Option

Some states require insurers to offer group health plan beneficiaries the option of converting their group coverage to individual coverage. Conversion enables individuals to buy health insurance from the employer's plan without being subject to medical screening. Under the Health Insurance Portability and Accountability Act (HIPAA, P.L. 104-191), a person moving from the group to individual insurance market is guaranteed access to health insurance coverage either under federal requirements or an acceptable alternative state mechanism. Although the policy must be issued, the premium might be less appealing than the premium under a group plan. The beneficiary must have exhausted all COBRA coverage before moving to the individual market. Although the premiums for an individual policy are higher, the conversion option may be attractive to a person who would otherwise have difficulty obtaining health insurance because of a major illness or disability.

Penalties for Noncompliance

Private group health plans are subject to an IRS excise tax for each violation involving a COBRA beneficiary. In general, the tax is $100 per day per beneficiary for each day of the period of noncompliance. ERISA also contains civil penalties of up to $100 per day for failure to provide the employee with the required COBRA notifications. State and local plans covered under the Public Health Service Act are not subject to the same financial penalties provided under the tax code or ERISA. However, state and local employees do have the right to bring an "action for appropriate equitable relief" if they are "aggrieved by the failure of a state, political subdivision, or agency or instrumentality thereof" to provide continuation health insurance coverage as required under the act.

Issues

COBRA was enacted to provide access to group health insurance for people who lose their employer-sponsored coverage, and thus to help reduce the number of uninsured. However, the law has limitations in its effectiveness in covering persons leaving the workforce and, from the point of view of both employees and employers, has costs that can be burdensome.

Coverage Issues

The universe of individuals covered by COBRA is limited in a number of ways. First, the small employer exception exempts employers with fewer than 20 employees from offering COBRA coverage. In addition, COBRA coverage is not extended to individuals who work for an employer, regardless of size, who does not offer group health insurance. Nor is it available to an employee who declines coverage under an employer's plan. Also, if the employer declares bankruptcy under Chapter 7 or simply discontinues operation, COBRA is not an option for employees. The Kaiser Family Foundation estimates that in 1999 only 57% of workers and their adult dependents would have been eligible for COBRA if they had become unemployed.[7]

Employer Size. Currently, COBRA provides an exception for employers with fewer than 20 employees. According to figures from the Census Bureau's *Statistics of U.S. Business,*[8] in 2001 approximately 20.6 million people, or 18% of employees covered in the survey, worked in firms with fewer than 20 employees. Although 38 states[9] require that continuation coverage be offered to employees in smaller firms, the coverage is not always as extensive as COBRA.

One method proposed for increasing the number of those eligible for COBRA coverage would involve lowering the number of employees in the small employer exemption. According to Census Bureau data, in 2001 there were approximately 8.3 million people working in firms with 10 to 19 employees. If the definition of "small employer" were changed to "those having fewer than 10 employees," the employers of these workers would no longer be exempted from COBRA. However, such a proposal would likely be opposed by the small business community because it would result in potentially higher premium costs and added administrative burdens. Additionally, because the employee pool is small in these firms, the cost of covering COBRA individuals who use health care extensively could result in raised premium costs for active employees in the long run.

Retirees. Many retirees obtain health insurance coverage through retiree plans offered by their former employers. The number of employers who offer retiree plans has been falling. For example, the 2003 Kaiser annual employer survey reported that the percentage of employers with 200+ employees who offered retiree health benefits had dropped from 66% in 1988 to 38% in 2003. Small firms are less likely to offer such coverage: 9% of firms with 3 to 24 workers offer retiree plans in 2003. The

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[7] Kaiser Commission on Medicaid and the Uninsured, *COBRA Coverage for Low-Income Unemployed Workers* (Washington: Kaiser Commission, 2001). For statistical information on COBRA beneficiaries, see CRS Report RS21159, *Analysis of COBRA Coverage Among Former Employees,* by Chris Peterson.

[8] U.S. Census Bureau, *Statistics of U.S. Business,* at [http://www.census.gov/csd/susb/susb01.htm].

[9] States that *do not* have COBRA expansion laws are Alabama, Alaska, Arizona, Delaware, Hawaii, Idaho, Indiana, Michigan, Montana, Pennsylvania, Virginia, and Washington. In addition, the District of Columbia does not have a COBRA expansion law.

Census Bureau estimates[10] that, in 2002, approximately 13% of people aged 55-64, many of whom are retirees, were uninsured.

Cost Issues

Employees are concerned about the cost of COBRA coverage. A 2003 Kaiser study[11] provided figures for the average premiums for employer-sponsored health insurance coverage in 2004. The cost for single coverage was $3,695 and for family coverage, $9,950. On average, employers covered approximately 73% of the premium for a family plan, leaving the employee's share at about $2,661. Under COBRA, the employee must pay 102% of the premium, or approximately $10,149, if the family plan's premiums were priced at the average cost. This can be a hardship for newly-unemployed individuals.

Employers also express concerns about costs. Charles D. Spencer & Associates, employee benefits analysts, periodically survey the employers who subscribe to their service regarding COBRA.[12] In their 2004 survey, they found that the *claims costs* of COBRA continuation coverage for the plan year 2004 were on average 46% higher than the claims costs of insurance coverage for active employees. The average annual health insurance costs per active employee was $5,721, and the COBRA cost was $8,353. 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 claims costs.

Federal Subsidies for COBRA Premiums. Some policymakers and analysts suggest providing federal subsidies for COBRA premiums as a possible means encouraging individuals to purchase the coverage and thereby lower the number of uninsured. These subsidies could be provided through direct payments to employees or employers or as tax credits to either party.

A number of studies have been conducted regarding the benefits and costs of federally funded COBRA subsidy programs.[13] There are advantages to providing

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[10] U.S. Census Bureau, *Health Insurance Coverage: 2002*, [http://www.census.gov/hhes/www/hlthin02.html]

[11] Kaiser Family Foundation and Health Research and Educational Trust, *Employer Health Benefits 2004 Annual Survey* (Washington: Kaiser Family Foundation, 2003).

[12] Charles D. Spencer & Associates, Inc., *2004 COBRA Survey* (Chicago: October 2004). Because this survey does not represent a random sampling of employers, it is not known whether its finding are representative of all employers in the United States.

[13] Examples of these studies include the following. The Congressional Budget Office constructed prototypes for means-tested federal subsidies. — U.S. Congressional Budget Office, *Proposals to Subsidize Health Insurance for the Unemployed* (Washington: Congressional Budget Office, 1998). Other prototypes, both means-tested and unrestricted, were suggested by Thomas Rice of the University of California at Los Angeles. — Thomas Rice, *Subsidizing COBRA: An Option for Expanding Health Insurance Coverage* (Washington: Kaiser Family Foundation, 1999). Jonathan Gruber of the Massachusetts

(continued...)

such subsidies, especially to low-income individuals. Vulnerable populations would be provided with the means to purchase insurance coverage. Further, people would be able to move more freely between jobs without losing health care coverage. On the other hand, subsidizing COBRA would likely be expensive. Because employees are guaranteed the same coverage they had immediately before the qualifying event, the policy might be a generous one with a high premium. In addition, government subsidies might be paid on behalf of people who would otherwise have purchased other insurance independently. Finally, subsidizing COBRA can provide disincentives to individuals seeking new employment, resulting in increased expenditures on unemployment compensation payments.

Another suggested form of government subsidy has been a tax credit that could be applied to the cost of COBRA premiums. Under current law, for individuals whose uncompensated medical expenses exceed 7.5% of their adjusted gross income, COBRA premiums are a deductible medical expense. The *deduction* is taken when calculating taxable income — before determining what is owed in taxes. The deduction reduces the income level that is used to calculate the tax owed. However, this benefit is only available to those whose medical expenses are high and who itemize their tax returns, and the value of the deduction varies with an individual's tax rate.

A tax *credit,* on the other hand, would be applied after the tax amount has been determined and it would reduce, by the full value of the credit, the amount of the tax that is owed. It would not be dependent upon whether the taxpayer itemizes the return, and it would not vary according to an individual's tax rate. A tax credit could be designed in various ways, depending on the target population. It could be a dollar amount (for example, a $1,000 tax credit for the purchase of health insurance) or a percentage (such as a credit equal to 50% or 75% of a premium). Or it could be a combination of both, such as a percentage with a dollar amount as a cap.

A tax credit is a method of encouraging those who might not otherwise buy health insurance to do so. However, this might not be attractive to individuals with small tax liabilities. For instance, if there was a $1,000 tax credit, but the taxpayer owed only $500 in tax, the taxpayer would not benefit from the full credit. Some proposals are designed to make the credit "refundable," that is, the taxpayer would receive a refund for the balance of the credit. In some instances, individuals do not have funds to pay their health insurance premiums on a monthly basis. They would not be helped by a tax credit that was not available until the end-of-the-year tax filing. Some tax analysts have suggested an "advanceable" tax credit, that is, one that would be available before a person files their tax return.

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[13] (...continued)
Institute of Technology proposed a COBRA-LOAN program for all eligible individuals. — Jonathan Gruber, *Transitional Subsidies for Health Insurance Coverage* (New York: Commonwealth Fund, 2000). A study of refundable tax credits for COBRA coverage was advocated by Jeff Lemieux of the Progressive Policy Institute. — Jeff Lemieux, *Transitional Health Coverage: A Tax Credit for COBRA* (Washington: Progressive Policy Institute, 2001).

Such a credit was enacted by the Trade Act of 2002 (P.L. 107-210). It established a refundable, advanceable tax credit for the purchase of qualified health insurance, including COBRA coverage, equal to 65% of the amount paid in premiums. The credit is available to workers (and their spouses and dependents) who have been certified as being adversely affected by foreign trade. To be covered, individuals must be eligible for a trade adjustment allowance (TAA) or be age 55 or over and receiving a pension through the Pension Benefit Guaranty Corporation (PBGC). The act also provided for an additional election period for TAA-eligible individuals who did not elect COBRA at the time they initially lost their health insurance coverage due to a TAA-related event. (For a more complete discussion of this legislation, see CRS Issue Brief IB98037, *Tax Benefits for Health Insurance: Current Legislation*, by Bob Lyke, or view information on the Internal Revenue Service's website at [http://www.irs.gov/individuals/article/0,,id=122652,00.html].)