



DISB ANNOUNCEMENTS

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What You Should Know About COBRA Federal Stimulus – Group Coverage Continuation Subsidy

The American Recovery and Reinvestment Act of 2009, the financial stimulus law signed Feb. 17, 2009, by President Barack Obama, made significant changes to COBRA continuation premium payment requirements. The changes apply to all employers that maintain a group health plan, regardless of whether they are currently subject to COBRA. A brief summary of the COBRA changes is set forth below:

What Are Group Coverage Continuation Laws?

Group coverage continuation laws require employers to offer employees who lose group coverage the opportunity to continue their employer-based health insurance. COBRA is the federal law that requires employers with 20+ employees to provide group continuation coverage. District law requires employers of any size to provide group continuation coverage.

NOTE: This fact sheet focuses on the subsidies and changes to federal and state continuation coverage provided under the Stimulus Plan.

When an Employee Loses Group Coverage and Elects Continuation, Who Pays the Premium?

The employee who lost group coverage, not the employer, must pay the entire health insurance premium.

Who is Eligible for Subsidized Coverage Under the New Law?

Individuals who lose group health coverage because of an involuntary termination (“former employees”) between September 1, 2008 and December 31, 2009 are eligible for a 65 percent federal subsidy of their federal COBRA or state continuation coverage premiums for up to 9 months. This subsidy is not available to workers whose income in the year they receive the subsidy exceeds \$125,000 for individuals and \$250,000 for couples filing joint tax returns.

NOTE: If an individual takes advantage of the subsidy and in the same year exceeds the income limit, he or she must repay the subsidy.

How Do Individuals Sign Up for the Subsidy?

Employers are required to send forms to former employees so that former employees can elect to continue their group coverage and receive the subsidy. Former employees will have 60 days after receiving the forms to enroll. Further details about enrollment will be provided by the federal

Department of Labor. For the most up-to-date information, contact the Department of Labor at 1-866-444-3272 or visit the agency's website (<http://www.dol.gov/ebsa/COBRA.html>).

Does the New Law, Including the Subsidy, Apply to Group Continuation Coverage other than COBRA?

The new law, including the subsidy, applies to both federal COBRA group continuation coverage and District of Columbia group continuation coverage.

NOTE: The new law applies only to the state's continuation law, not to the state's spousal continuation law or dependent continuation law.

Does the New Law, Including the Subsidy, Apply to Small Health Plans (<20 employees)?

The new law, including the subsidy, applies to group health plans of all sizes.

When Will Eligible Individuals First Receive the Subsidy?

The subsidy will be applied to premiums for the first period of coverage beginning on or after Feb. 17, 2009. For most individuals, the first period of subsidy-eligible coverage will begin March 1, 2009. The subsidy is prospective (*i.e.*, the new law does not subsidize group continuation coverage prior to the first period of coverage on or after Feb. 17, 2009).

NOTE: Individuals who have already paid premiums for a period of coverage to which the subsidy applies are entitled to a refund or credit from their employer for the subsidy amount.

How will the Subsidy be Applied to Group Continuation Coverage?

Former employees who qualify for the subsidy will only be required to pay 35 percent of the group coverage continuation premium. The former employer initially pays the remaining 65 percent, but the government will later reimburse the employer through a reduction in payroll taxes.

Former employees will not be required to pay the full group coverage continuation premium and then seek a refund.

Will Eligible Individuals Who Previously Terminated or Declined to Elect Group Continuation Coverage Have Another Opportunity to Elect Group Continuation Coverage and Receive the Subsidy?

If your employment was involuntarily terminated on or after Sept. 1, 2008, and you initially declined to elect group continuation coverage, or elected group continuation coverage and later stopped paying premiums, your employer must notify you of an additional opportunity to elect group continuation coverage and receive the subsidy. You will have 60 days to enroll after receiving notification from your employer. This opportunity to enroll is referred to as the "extended election period."

UPDATE: In March 2009, the Council of the District of Columbia approved the "Continuation of Health Coverage Act Emergency Amendment Act of 2009," which amends District law to allow certain involuntarily terminated employees to continue with their employer's health benefits plan for a period of nine months. By doing so, District residents who worked for small employers (those with

less than 20 employees) can take advantage of a federal subsidy provided by the American Recovery and Reinvestment Act of 2009, commonly referred to as the “stimulus bill.”

Coverage for eligible individuals who enroll during the extended election period will:

- Begin on the first period of coverage on or after Feb. 17, 2009.
- End on the date coverage would have ended if the eligible individual had elected group continuation coverage when he or she first became eligible. For example, if an employee was involuntarily terminated Sept. 1, 2008, did not elect COBRA continuation coverage after the layoff, but now chooses to elect COBRA, his or her COBRA coverage ends March 1, 2010 – 18 months from when he or she first became eligible for COBRA, not 18 months from an election during the extended election period.

When providing coverage to former employees who elect group continuation coverage during the extended election period, employers may not apply pre-existing condition coverage limitations based on a gap in coverage between the layoff and commencement of the group continuation coverage.

What if an Employer Refuses to Provide Group Continuation Coverage or Refuses to Provide the Subsidy?

The new law requires the federal Department of Labor to provide an expedited review of any employer’s refusal to allow a worker to elect group continuation coverage and receive the subsidy. Once the denied individual submits an application for review, the Department of Labor shall make an eligibility determination within 15 business days. If you have additional questions about these reviews, contact the Department of Labor at 1-866-444-3272 or visit the agency’s Web site (<http://www.dol.gov/ebsa/COBRA.html>).

Does the New Law Extend the Length of Available Group Continuation Coverage?

The new law does not change the length of time that group continuation coverage must be provided to eligible individuals: COBRA typically provides for up to 18 months of coverage, while state continuation law provides for up to 9 months of coverage.

Will Individuals be Eligible for the Subsidy for as Long as They Are Eligible for Group Continuation Coverage?

The subsidy will not necessarily last as long as your group continuation coverage. For example, former employees typically qualify for up to 18 months of COBRA coverage. The subsidy lasts up to 9 months. Therefore, an eligible individual who chooses to pay for 18 months of COBRA coverage after March 1, 2009 would still have to pay nine months of unsubsidized premiums.

Can an Individual Lose Eligibility for the Group Continuation Subsidy?

You can lose eligibility for the group continuation subsidy in two ways. First, as mentioned above, the subsidy lasts no longer than 9 months. Second, you become ineligible for the subsidy when you become eligible for new group health coverage or Medicare.

- Beneficiaries must notify their former employer when they become eligible for new group health coverage.

- Beneficiaries who willfully neglect to notify their former employer of their eligibility for a new group health plan must repay 110 percent of the subsidy to the federal government. No such penalty shall be imposed if the beneficiary demonstrates “reasonable cause” for the failure.

NOTE: Rules governing eligibility for subsidized COBRA differ from rules governing eligibility for unsubsidized COBRA. Eligibility for unsubsidized COBRA ends only when a beneficiary enrolls in new group coverage or Medicare. However, simply being eligible for new group health coverage disqualifies an individual from receiving the COBRA subsidy.

Does the Subsidy Affect Eligibility for other Income-Based Government Programs?

The subsidy will not be counted as income in determining eligibility for, or assistance provided under, any other federal or state program.

Does the New Law Affect Individuals Who Qualify for COBRA Due to Eligibility for Trade Adjustment Assistance or Eligibility for Benefits from the Pension Benefit Guaranty Corporation?

The new law provides significant extensions of COBRA coverage periods for individuals who receive benefits directly from the Pension Benefit Guaranty Corporation or are eligible for Trade Adjustment Assistance. If you have additional questions about these extensions, contact the federal Department of Labor at 1-866-444-3272 or visit the agency’s website (<http://www.dol.gov/ebsa/COBRA.html>).

For More Information

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