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## Fact Sheet

### COBRA Premium Reduction

U.S. Department of Labor  
Employee Benefits Security Administration  
March 12, 2010



The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act (2010 DOD Act) on December 19, 2009 and the Temporary Extension Act of 2010 (TEA) on March 2, 2010, provides for premium reductions for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA. Eligible individuals pay only 35 percent of their COBRA premiums; the remaining 65 percent is reimbursed to the coverage provider through a tax credit. The premium reduction applies to periods of health coverage that began on or after February 17, 2009 and lasts for up to 15 months.

To qualify, individuals must experience a COBRA qualifying event that is the involuntary termination of a covered employee's employment. The involuntary termination must generally occur during the period that began September 1, 2008 and ends on March 31, 2010. However, TEA also provides that an involuntary termination of employment is a qualifying event for purposes of ARRA if the involuntary termination:

- occurs on or after March 2, 2010 and no later than March 31, 2010; and
- follows a qualifying event that was a reduction of hours that occurred at any time from September 1, 2008 through March 31, 2010.

#### What is COBRA?

COBRA gives workers and their families who lose their health benefits the right to purchase group health coverage provided by the plan under certain circumstances.

If the employer continues to offer a group health plan, the employee and his/her family can retain their group health coverage for up to 18 months by paying group rates. The COBRA premium may be higher than what the individual was paying while employed, but generally the cost is lower than that for private, individual health insurance coverage.

The plan administrator must notify affected employees of their right to elect COBRA. The employee and his/her family each have 60 days to elect the COBRA coverage; otherwise, they lose all rights to COBRA benefits.

COBRA generally does not apply to plans sponsored by employers with fewer than 20 employees. Many States have similar requirements for insurance companies that provide coverage to small employers. The premium reduction is available for insurers covered by these State laws.

#### Changes Regarding COBRA Continuation Coverage Under ARRA, as amended by the Temporary Extension Act of 2010

TEA extended the COBRA premium reduction eligibility period for one month until March 31, 2010. TEA also expanded eligibility to individuals who experience a qualifying event that is a reduction of hours occurring at any time from September 1, 2008 through March 31, 2010, which is followed by an involuntary termination of employment on or after March 2, 2010 through March 31, 2010. This expansion also includes a second election opportunity for these individuals who had a reduction of hours qualifying event followed by an involuntary termination, if they did not elect COBRA continuation coverage when it was first offered OR elected but subsequently discontinued COBRA.

#### Eligibility for the Premium Reduction

The premium reduction for COBRA continuation coverage is available to "assistance eligible individuals". An "assistance eligible individual" is the employee or a member of his/her family who elects COBRA coverage timely following a qualifying event related to an involuntary termination of employment that occurs at any point from:

- September 1, 2008 through March 31, 2010; or
- March 2, 2010 through March 31, 2010 if:
  - the involuntary termination follows a qualifying event that was a reduction of hours; and
  - the reduction of hours occurred at any time from September 1, 2008 through March 31, 2010.
- A reduction of hours is a qualifying event when the employee and his/her family lose coverage because the employee, though still employed, is no longer working enough hours to satisfy the group health plan's eligibility requirements.
- Generally, the maximum period of continuation coverage is measured from the date of the original qualifying event (for Federal COBRA, this is generally 18 months). However, ARRA, as amended by TEA, provides that the 15 month premium reduction period begins on the first day of the first period of coverage for which an individual is "assistance eligible." This is of particular importance to individuals who experience an involuntary termination following a reduction of hours. Only individuals who have additional periods of COBRA (or state continuation) coverage remaining after they become assistance eligible are entitled to the premium reduction.
- For purposes of ARRA, COBRA continuation coverage includes continuation coverage required under Federal law (COBRA or Temporary Continuation Coverage) or a State law that provides comparable continuation coverage (for example, so-called "mini-COBRA" laws).
- Those who are eligible for other group health coverage (such as a spouse's plan) or Medicare are not eligible for the premium reduction. There is no premium reduction for periods of coverage that began prior to February 17, 2009.
- Assistance eligible individuals who pay 35 percent of their COBRA premium must be treated as having paid the full amount. The premium reduction (65 percent of the full premium) is reimbursable to the employer, insurer or health plan as a credit against certain employment taxes.

#### Period of Coverage

The premium reduction applies to periods of coverage beginning on or after February 17, 2009. A period of coverage is a month or shorter period for which the plan charges a COBRA premium. The premium reduction for an individual ends upon eligibility for other group coverage (or Medicare), after 15 months of the reduction, or when the maximum period of COBRA coverage ends, whichever occurs first. Individuals paying reduced COBRA premiums must inform their plans if they become eligible for coverage under another group health plan or Medicare.

#### Notice Requirements

ARRA, as amended by TEA, mandates that plans notify certain current and former participants and beneficiaries about the premium reduction. The Department is updating its existing models and creating several additional models to help plans and individuals comply with these requirements. Each model notice will be designed for a particular group of individuals and will contain information to help satisfy ARRA's notice provisions, including those added by TEA. As soon as the notices are complete, they will be available on EBSA's Web site at [www.dol.gov/cobra](http://www.dol.gov/cobra).

### **Expedited Review of Denials of Premium Reduction**

Individuals who are denied treatment as assistance eligible individuals and thus are denied eligibility for the premium reduction (whether by their plan, employer or insurer) may request an expedited review of the denial by the U.S. Department of Labor. The Department must make a determination within 15 business days of receipt of a completed request for review. The official application form is available at [www.dol.gov/COBRA](http://www.dol.gov/COBRA) and can be filed online or submitted by fax or mail.

### **Switching Benefit Options**

If an employer offers additional coverage options to active employees, the employer may (but is not required to) allow assistance eligible individuals to switch the coverage options they had when they became eligible for COBRA. To retain eligibility for the ARRA premium reduction, the different coverage must have the same or lower premiums as the individual's original coverage. The different coverage cannot be coverage that provides only dental, vision, a health flexible spending account, or coverage for treatment that is furnished in an on-site facility maintained by the employer.

### **Income limits**

If an individual's modified adjusted gross income for the tax year in which the premium assistance is received exceeds \$145,000 (or \$290,000 for joint filers), then the amount of the premium reduction during the tax year must be repaid. For taxpayers with adjusted gross income between \$125,000 and \$145,000 (or \$250,000 and \$290,000 for joint filers), the amount of the premium reduction that must be repaid is reduced proportionately. Individuals may permanently waive the right to premium reduction but may not later obtain the premium reduction if their adjusted gross incomes end up below the limits. If you think that your income may exceed the amounts above, consult your tax preparer or contact the IRS at [www.irs.gov](http://www.irs.gov).

### **New Penalty Provision**

TEA also provides that the appropriate Secretary may assess a penalty against a plan sponsor or health insurance issuer of up to \$110 per day for each failure to comply with such Secretary's determination 10 days after the date of the plan sponsor's or issuer's receipt of the determination.

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate formats upon request: Voice phone: 202.693.8664; TTY: 202.501.3911. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.