

## KNOW YOUR EMPLOYEE BENEFITS

Benefit and insurance issues important to you—brought to you by the insurance specialists at Customized Benefit Solutions, Inc..

# Frequently Asked COBRA Subsidy Questions and Answers

## *For Employees and Their Families*

**I have heard that the Stimulus package signed by the President included a new temporary COBRA premium reduction. I would like more information.**

COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985) provides for a temporary extension of employer-provided group health coverage, commonly called COBRA continuation coverage. The American Recovery and Reinvestment Act of 2009 (ARRA) expands eligibility for COBRA continuation coverage and provides a premium reduction to certain qualified individuals.

Individuals who are eligible for COBRA coverage because of their involuntary termination of employment that occurred from September 1, 2008 through December 31, 2009 – and who elect COBRA – may be eligible to pay a reduced premium amount that is only

35% of the premium for COBRA coverage for up to 9 months. This premium reduction is generally available for continuation coverage provided pursuant to the Federal COBRA provisions, as well as for group health insurance coverage provided pursuant to state continuation coverage laws.

If you were offered Federal COBRA continuation coverage as a result of an involuntary termination of employment that occurred on or after September 1, 2008 and you declined to take COBRA at that time, or elected COBRA and later dropped it, you may have another opportunity to elect COBRA coverage.

### **How can I tell if I am eligible to receive the COBRA premium reduction?**

To qualify for the COBRA premium reduction, you must:

- Be eligible for COBRA continuation coverage as a result of an involuntary

termination of employment at any time from September 1, 2008 through December 31, 2009; and

- Elect COBRA coverage (when first offered or during the additional election period).

If you are eligible for other group health coverage (such as through a spouse's plan or a new employer's plan) or for Medicare, you are not eligible for the premium reduction.

The amount of the premium reduction is recaptured for certain high income individuals. If the amount you earn for the year is at least \$125,000 (or \$250,000 for married couples filing a joint Federal income tax return), all or part of the amount of the premium reduction may be recaptured by an increase in income tax liability for the year. If you think that your income may exceed the amounts above, consult your tax preparer or contact the

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

**Note:** If the employee's termination of employment was for gross misconduct, the employee and any dependents generally would not qualify for COBRA or the premium reduction.

## **My health coverage was terminated when my employer shut down and laid off all its workers. Can I get the premium reduction to pay for new health coverage?**

The premium reduction is available to help qualified individuals pay for COBRA continuation health coverage. If there is no longer a health plan, there is often no COBRA coverage available, unless another related or successor employer sponsors a group health plan responsible for providing coverage to you. If you believe a related or successor employer may be responsible for providing you with COBRA coverage, you can contact the employer directly or EBSA toll-free at (866) 444-3272 to speak to a Benefits Advisor for assistance.

## **I was laid off after September 1, 2008, but declined continuation coverage because I could not afford it. Can I enroll in COBRA now and receive the premium reduction?**

Generally, yes. For individuals eligible for Federal COBRA continuation coverage, if your qualifying event was an involuntary termination of employment that occurred during the period from

September 1, 2008 through February 16, 2009, and are not enrolled in COBRA coverage (because you never elected COBRA or because you elected but later dropped COBRA coverage), you will get a second opportunity to enroll. Your plan is required to notify you of the second election period by April 18, 2009, after which you have 60 days to enroll in COBRA coverage with the premium reduction.

For individuals eligible for State continuation coverage (such as state "mini-COBRA"), your state may choose but is not required to provide a second election period.

## **How do I apply for the premium reduction?**

If you were covered by an employment-based health plan on the last day of the employee's employment, the plan should provide you a notice of your eligibility to elect COBRA and to receive the premium reduction. These materials should include any forms necessary for enrollment. You may also want to contact your plan directly to ask about taking advantage of the premium reduction.

## **I am enrolled in COBRA coverage with my health plan and am paying premiums. If I am eligible for the premium reduction, will I receive a refund of 65% of all the premiums that I have paid since September 2008?**

No. The premium reduction provisions apply only to premiums for coverage

periods beginning on or after February 17, 2009. If you were eligible for the reduction but paid in full for periods of COBRA coverage beginning on or after February 17, 2009, you should contact the plan administrator or employer sponsoring the plan to discuss a credit against future payments (or refund in certain circumstances).

## **If I am eligible for the premium reduction, how long will it last?**

Your premium reduction can last up to 9 months. However, it will end earlier if:

1. You become eligible for Medicare or another group health plan (such as a plan sponsored by a new employer or a spouse's employer), or
2. You reach the end of your maximum COBRA coverage period.

If you plan to continue your COBRA coverage after the premium reduction period, you will have to pay the full amount of the premium. Failure to do so may result in your loss of COBRA coverage.

Individuals paying reduced COBRA premiums must notify their plans if they become eligible for coverage under another group health plan or Medicare. Failure to do so can result in a tax penalty.

## **I am currently enrolled in COBRA continuation coverage, but would like to switch to a different coverage option offered by my former employer. Can I do this?**

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Group health plans are permitted, but not required, to allow qualified beneficiaries to enroll in coverage that is different than the coverage they had at the time of the qualifying event. ARRA provides that changing coverage will not cause an individual to be ineligible for the COBRA premium reduction, provided that:

- The premium for the different coverage is the same or lower than the coverage the individual had at the time of the qualifying event;
- The different coverage is also offered to active employees; and
- The different coverage is not limited to only dental coverage, vision coverage, counseling coverage, a flexible spending account, or an on-site medical clinic.

If the plan permits individuals to change coverage options, the plan must provide the individuals with a notice of their opportunity to change. Individuals have 90 days to elect to change their coverage after the notice is provided.

## **What can I do if my former employer's group health plan denies my application for the premium reduction?**

If the plan determines that you are not eligible for the premium reduction, you can request an expedited review of the denial. The Department of Labor will handle appeals related to private sector employer plans who are subject to ERISA's COBRA provisions. The Department of

Health and Human Services will handle appeals for Federal, State, and local governmental employees, as well as appeals related to group health insurance coverage provided pursuant to state continuation coverage laws. The Departments are required to make a determination regarding your appeal within 15 business days after receiving your completed application for review.

**Note:** Appeals to the Department of Labor must be submitted on a U.S. Department of Labor application form. The form will soon be available at [www.dol.gov/COBRA](http://www.dol.gov/COBRA) and can be completed online or mailed or faxed as indicated in the instructions.] If you believe you have been inappropriately denied eligibility for the premium reduction, you may wish to speak with an Employee Benefits Security Administration Benefits Advisor at (866) 444-3272 before filing this form.

## **How can I get more information on my eligibility for COBRA or the premium reduction?**

Visit the Department of Labor's Web site at [www.dol.gov/COBRA](http://www.dol.gov/COBRA) for information related to COBRA eligibility and the premium reduction. Benefits Advisors are also available at (866) 444-3272.

*Source: Department of Labor*

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