

The American Recovery And Reinvestment Act Of 2009 Affects COBRA Processing

Summary

The American Recovery And Reinvestment Act Of 2009, more commonly known as the Stimulus Bill, significantly impacts COBRA administration.

Title III - Premium Assistance For COBRA Benefits, includes new procedural requirements for the administration of a new government subsidy to assist certain individuals and their families with the payment of COBRA coverage premiums.

Details Of The Law

While the bill was signed into law today, many details remain to be worked out. Following is a summary of what is currently known about the law:

Purpose

The law recognizes the fact that many people who lose their job also lose their group insurance coverage because they cannot afford the cost of COBRA coverage. The law provides for a Federal government subsidy payment of 65% of the cost of COBRA coverage for up to 9 months for individuals who have a qualifying event of involuntary termination of employment.

Effective Date

The law is effective for a period of coverage beginning on or after the date of the enactment of the Act on February 17, 2009.

Who Is Eligible For Subsidy

Anyone who has a qualifying event resulting in involuntary termination of employment, who elects COBRA coverage and pays their part (35%) of the cost of coverage..

Individuals with adjusted gross incomes in excess of \$125,000.00 or (\$250,000.00 for those filing joint returns) can choose to opt out of the subsidy as they are generally not eligible for it.

How The Subsidy Is Paid

Subsidy amounts are reimbursed directly to employers by the employer taking the amount directly off normal payroll taxes - Social Security and Federal Income taxes, that the employer would normally deposit.

Reimbursement of the subsidy is contingent upon the eligible person first paying the reduced part or 35% of the premium.

When The Subsidy Stops

Subsidy will not be paid for months of coverage beginning on or after the earlier of -

1. the first date the individual is eligible for coverage under any other group health plan or Medicare, that is not just dental, vision, referral, a flexible spending arrangement or counseling.
2. the date that is 9 months after the first day of the first month that the person received a subsidy,
3. the date following expiration of the maximum period of continuation coverage required under COBRA

Will Subsidy Be Paid Retro Actively

No subsidy amount will be paid for coverage periods prior to enactment of the Act on February 17, 2009.

Notification Required

Within 60 days of enactment of the law you are required to provide all assistance eligible persons previously notified, on or after September 1, 2008 another notification, advising them of the opportunity to elect continuation coverage and the availability of the subsidy amounts. In addition, notification letters provided to newly eligible persons through December 31, 2009 must include information about the availability of the subsidy.

Any assistance eligible person who previously did not elect COBRA coverage must be provided a second chance to elect within 60 days of being notified. The coverage will not "reach back". It will become effective on the first premium period beginning on or after enactment of the law. It will not cause any extension of continuation coverage periods, extending only to the period the person would have been eligible for if the election had been made.

The exact text of the new notice is not yet available - however, the law requires the Departments of Labor, Treasury and Health and Human Services to make available a model notice within 30 days of the laws enactment.

The law currently includes only the following specific requirements:

The notice must include forms required to establish subsidy eligibility, name, address and contact info of the plan administrator and any other person with information about the premium reduction. It also must include a description of the extended election period, of the qualified persons requirement to notify the plan of a change in coverage status, and the penalty for failing to do so. A clear description of the right to a subsidy of premium must also be included.

Creditable Coverage

The law assists terminated workers in not triggering the 63-day break in coverage for HIPAA creditable coverage purposes. The time period beginning on the date of the qualifying event and ending with the day before the date of enactment of the Act will be disregarded when determining the 63-day break in coverage.

Reports That May Be Required

Employers may be required to provide certain reports, including:

1. Confirmation of involuntary termination for each person claiming reimbursement,
2. The amount of payroll taxes offset,
3. Report all TINs of covered employees, the amount of subsidy reimbursed and designation of whether the amounts were for single or family coverage.

Direct Reimbursement Of Premium Currently Paid

Some assistance eligible individuals may have made one or more full premium payments during the transition period. Amounts that are eligible for subsidy must be reimbursed or credited to the person. Generally, such payments must be made within 60 days or used as a credit for coverage within 180 days.

Changing Coverage

The law limits an eligible persons ability to change to other coverage when getting the subsidy. A person can only change coverage when these conditions are met:

1. The premium for different coverage does not exceed the premium for the coverage the person was enrolled in at the time of the event;
2. The different coverage elected is also offered to active employees of the employer at the time the election is made;
3. The different coverage is not coverage providing only dental, vision, counseling or referral services or a flexible spending account;
4. The different coverage is not for services or treatments furnished in an on-site medical facility.

Flexible Spending Accounts

COBRA premium assistance is not available for health flexible spending arrangements.

Premium Subsidy Not Taxable

Premium assistance amounts do not need to be included in the gross income of the COBRA qualified beneficiary.

What BPSC Is Doing About The Legislation

Products Impacted

The only BPSC product impacted by the law is COBRA EAS.

Action Required

1. Determine which people were notified between September 1, 2008, with job loss qualification codes.
2. Modify the Notification/Election letter to include new requirements and create a second opportunity to elect letter.
3. Determine which payment source codes, qualification codes, employer paid parameters and user defined fields may be required.
4. Review procedures for reimbursement of premiums paid to participants prior to receipt of the subsidy amount.
5. Review which reports may be needed by employers.
6. Determine which other measures may be required.

We are confident that we can provide effective ways for you to meet the requirements with a minimum amount of effort. We are currently testing various scenarios to determine which would be best to use. We expect to complete our review within several days and will provide additional information as soon as it is available.

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