



Jan 2010

Legislative Update:

COBRA Premium Extension Approved

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended on December 19, 2009 by the Department of Defense Appropriations Act, 2010 (2010 DOD Act) 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 and the remaining 65 percent is reimbursed to the coverage provider through a tax credit. To qualify, individuals must experience a COBRA qualifying event that is the involuntary termination of a covered employee's employment. The involuntary termination must occur during the period that began September 1, 2008 and ends on February 28, 2010. The premium reduction applies to periods of health coverage that began on or after February 17, 2009 and lasts for up to 15 months.

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:

- has a qualifying event for continuation coverage under COBRA or a State law that provides comparable continuation coverage (for example, so-called "mini-COBRA" laws) that is the employee's involuntary termination at any point from September 1, 2008 through February 28, 2010; and
- elects COBRA coverage timely.

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 premiums paid for periods of coverage that began prior to February 17, 2009.

Assistance eligible individuals who pay 35 percent of their COBRA premium are 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, mandates the provision of certain notices. As part of the COBRA election notice, plan administrators must provide information about the premium reduction to all individuals who have COBRA qualifying events from September 1, 2008 through February 28, 2010.

Plan administrators must also provide notice about the changes made to the premium reduction provisions of ARRA by the 2010 DOD Act to individuals who have already been provided a COBRA election notice (unless the election notice included the updated premium reduction information).

- Individuals who are "assistance eligible individuals" must be provided this notice by February 17, 2010;
- Individuals who experience a termination of employment on or after October 31, 2009 and lose health coverage must be provided this notice within the normal timeframes for providing continuation coverage notices; and
- Individuals who are in a "transition period" (a period that begins immediately after the end of the nine months of premium reduction in effect under ARRA before the amendments made by the 2010 DOD Act, as long as those nine months ended before December 19, 2009 and the premium reduction provisions of the 2010 DOD Act would apply due to the extension from nine to 15 months) must be provided this notice within 60 days of the first day of the transition period.



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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 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.

Frequently Asked Questions

Q1: What is a "transition period" and how does it affect my ability to make retroactive payment of unpaid reduced premiums related to the extension:

An individual's "transition period" is the period that begins immediately after the end of the maximum number of months (generally nine) of premium reduction available under ARRA prior to its amendment. An individual is in a transition period only if the premium reduction provisions would continue to apply due to the extension from nine to 15 months and they otherwise remain eligible for the premium reduction. Individuals in a transition period must be provided notice of the extension within 60 days of the first day of their transition period. The notice must include information on the extension from nine to 15 months and the ability to make retroactive payments for certain unpaid reduced premiums. The transition period may include multiple periods of coverage. The retroactive payment(s) for the period(s) of coverage must be made by the later of February 17, 2010, 30 days from when the notice was provided, or the end of the otherwise applicable payment grace period.

Q2: If my eligibility for the premium reduction under ARRA expired (after receiving it for nine months) in November, 2009, and I did not pay the December premium—will I be able to re-enter the program and get the additional six months of subsidy?

Yes, as long as you otherwise remain eligible for the premium reduction program. The law has a retroactivity provision, but 35% of the premium must still be paid for each month for coverage to remain in effect. Individuals who now have additional months of reduced premiums available (because the 2010 DOD Act extended ARRA's maximum period from nine to 15 months and they otherwise remain eligible for the premium reduction) are in a "transition period" and will have additional time to pay certain unpaid reduced premiums related to the extension. Accordingly, to continue their coverage, individuals described above must pay 35% of the full premium for the December and January periods of coverage by the later of February 17, 2010 or 30 days after notice of the extension is provided by their plan administrator.

Source: U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC
For additional information, log on to: <http://www.dol.gov/ebsa/faqs/faq-cobra-premiumreductionEE.html>

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