

COBRA PREMIUM SUBSIDY

Title: American Recovery and Reinvestment Act – COBRA Premium Subsidy

Purpose: The Act provides for a premium subsidy of 65% of the COBRA premium for certain eligible employees who are involuntarily terminated from employment between September 1, 2008 and December 31, 2009. The subsidy is provided for a maximum of 9 months. The subsidy is paid by the employer (for COBRA coverage) or the insurer (for State continuation coverage) and recouped from the federal government as a credit on IRS Form 941 (Employer's Quarterly Federal Tax Return). All health plans normally subject to COBRA (e.g. medical and dental) are eligible except for Flexible Spending Account.

Effective Date: Upon enactment (February 17, 2009). The subsidy is available for the first period of coverage after February 17, 2009, which will generally be March 1st if premiums are paid on a monthly basis.

Who's Eligible: To be eligible for the subsidy, the individual must:

1. Be involuntarily terminated from employment between September 1, 2008 and December 31, 2009;
2. Be eligible for COBRA (or comparable state continuation coverage) during that time period;
3. Have a modified adjusted gross income below \$145,000 (individual filers), or below \$290,000 (joint filers) (individuals with an adjusted gross income is between \$125,000 and \$145,000 or joint adjusted gross income between \$250,000 and \$290,000 are eligible for a lower percentage of subsidy); *and*
4. Not be eligible for other group health coverage (such as a spouse's plan) or Medicare.

If an individual is eligible for the subsidy, so are his/her spouse and/or dependents.

Individuals that elected COBRA after September 1, 2008 and before enactment are eligible for the subsidy on a prospective basis. For these individuals who pay 100% of COBRA premiums during the 60 days following enactment, the employer may either reimburse 65% of the premiums or provide a credit to offset future payments (provided it is reasonable that the credit will be used in 180 days). Individuals that became eligible for COBRA after September 1, 2008 but declined COBRA will be given a new opportunity to elect COBRA (see Notice Requirements, below). The maximum period of eligibility for the subsidy is 9 months.

Individuals who are ineligible for the subsidy because their income exceeds the threshold will be required to repay the subsidy by reporting it as income on their personal taxes.

Employer and Insurer Obligations: When coverage is provided under federal COBRA, the *employer* will collect 35% of premium from the individual and will receive the remaining 65% of premium from the federal government as a credit on their quarterly employer taxes. When coverage is provided under RI Extended Medical Benefits, the *insurer* will collect 35% and receive the 65% as an offset to employer taxes. Employers and insurers can treat all COBRA beneficiaries eligible due to involuntary termination during the applicable period as eligible for the subsidy, without validating income.

An individual may elect to notify the employer or insurer (as applicable) that he/she is not eligible for the subsidy because of income and the employer or insurer (as applicable) must comply.

The Act also modifies COBRA to allow (but not require) employers to permit and individual who is eligible for the subsidy to change his/her health plan benefit option provided that the new option must have the same or lower premiums and must be available to active employees.

COBRA PREMIUM SUBSIDY

Notice Requirements: Employers must provide modified or supplemental notices within 60 days of enactment to COBRA eligible individuals who become entitled to COBRA between September 1, 2008 and December 31, 2009. The notice must describe the premium subsidy and, if applicable, the right to change coverage options in addition to certain other information.

Effect on Rhode Island Law: Individuals eligible for RI Extended Medical Benefits (under RIGL 27-19.1-1) as a result of involuntary layoff, the workplace ceasing to exist, or permanent reduction in force are eligible for the subsidy.

Resources: IRS: www.irs.gov/newsroom/article/0,,id=204505,00.html
US Dept. of Labor: www.dol.gov/ebsa/COBRA.html

This document is provided for informational purposes only and does not constitute legal or compliance advice. Employers should consult their counsel for specific guidance.

Rev. 3/4/09



Your Plan for Life.™

www.BCBSRI.com

444 Westminister Street • Providence, RI 02903-3279

Blue Cross & Blue Shield of Rhode Island is an independent licensee of the Blue Cross and Blue Shield Association.