



## **Federal Stimulus – COBRA Premium Assistance March 2, 2009**

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act, commonly called the Stimulus Plan. The new law provides a subsidy that may reduce by 65% the cost of COBRA and other state group continuation coverage for workers who lose their jobs.

### **What Are Group Coverage Continuation Laws?**

Group coverage continuation laws require employers to offer employees who lose group coverage the opportunity to continue their employer-based health insurance. COBRA is the federal law that requires employers with 20+ employees to provide group continuation coverage. State law requires employers of any size to provide group continuation coverage.

**NOTE:** This fact sheet focuses on the subsidies and changes to federal and state continuation coverage provided under the Stimulus Plan. For more detailed information about COBRA and state continuation laws, please refer to the Department's consumer fact sheets titled [How to Find Health Insurance After Losing Employer-Provided Coverage](#).

### **When an Employee Loses Group Coverage and Elects Continuation, Who Pays the Premium?**

The employee who lost group coverage, not the employer, must pay the entire health insurance premium.

### **Who is Eligible for Subsidized Coverage Under the New Law?**

Individuals who lose group health coverage because of an involuntary termination ("former employees") between September 1, 2008 and December 31, 2009 are eligible for a 65% federal subsidy of their federal COBRA premiums for up to 9 months or state continuation coverage premiums for up to 6 months. This subsidy is not available to workers whose income in the year they receive the subsidy exceeds \$125,000 for individuals and \$250,000 for couples filing joint tax returns. Spouses, former spouses and dependent children are eligible for premium assistance if their coverage is through the former employee who was involuntarily terminated. However, individuals receiving continuation coverage due to a qualifying event other than involuntary termination, such as divorce or a child reaching the age at which coverage ends, are not eligible for premium assistance.

**NOTE:** If an individual takes advantage of the subsidy and in the same year exceeds the income limit, he or she must repay the subsidy.

### **How Do Individuals Sign Up for the Subsidy?**

Employers are required to send a notice to former employees so that former employees can elect to continue their group coverage and receive the subsidy. Model notices, released by the Department of Labor on March 19, 2009, can be found at: [www.dol.gov/COBRA](http://www.dol.gov/COBRA). Former employees will have from the first day they are eligible until 60 days after receiving the notice to enroll. Further details about enrollment will be provided by the federal Department of Labor. For the most up-to-date information, contact the Department of Labor at 1-866-444-3272 or visit <http://www.dol.gov/ebsa/COBRA.html>.

### **Does the New Law, Including the Subsidy, Apply to Group Continuation Coverage other than COBRA?**

**Accredited by the National Association of Insurance Commissioners (NAIC)**

**Consumer Hotline:** 1-800-686-1526

**Fraud Hotline:** 1-800-686-1527

**OSHIP Hotline:** 1-800-686-1578

**TDD Line:** (614) 644-3745

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The new law, including the subsidy, applies to both federal COBRA group continuation coverage and state group continuation coverage.

**Does the New Law, Including the Subsidy, Apply to Small Health Plans (<20 employees)?**

The new law, including the subsidy, applies to group health plans of all sizes.

**When Will Eligible Individuals First Receive the Subsidy?**

The subsidy will be applied to premiums for the first period of coverage after February 17, 2009. The subsidy is prospective (*i.e.*, the new law does not subsidize group continuation coverage prior to February 17, 2009).

**NOTE:** Individuals who have already paid premiums for the first period of coverage after February 17, 2009 are entitled to a refund or credit from their employer for the subsidy amount.

**How will the Subsidy be Applied to Group Continuation Coverage?**

Former employees who qualify for the subsidy will only be required to pay 35% of the group coverage continuation premium. The former employer, or insurance company, initially pays the remaining 65%, but the government will later reimburse the employer or insurance company through a reduction in payroll taxes.

Former employees will not be required to pay the full group coverage continuation premium and then seek a refund.

**Will Eligible Individuals Who Previously Terminated or Declined to Elect Group Continuation Coverage Have Another Opportunity to Elect Group Continuation Coverage and Receive the Subsidy?**

If your employment was involuntarily terminated on or after September 1, 2008 and you initially declined to elect group continuation coverage, or elected group continuation coverage and later stopped paying premiums, your employer must notify you of an additional opportunity to elect group continuation coverage and receive the subsidy. You will have from your first day of eligibility until 60 days after receiving notification from your employer to enroll. This opportunity to enroll is referred to as the “extended election period.”

Coverage for eligible individuals who enroll during the extended election period will:

- Begin as early as the first period of coverage after February 17, 2009.
- End on the date coverage would have ended if the eligible individual had elected group continuation coverage when he or she first became eligible. For example, if an employee was involuntarily terminated September 1, 2008, did not elect COBRA continuation coverage after the layoff, but now chooses to elect COBRA, his or her COBRA coverage ends on March 1, 2010 – 18 months from when he or she first became eligible for COBRA, not 18 months from an election during the extended election period.

- Only be available to individuals covered under the federal COBRA law. If your employer had less than 20 employees and your continuation coverage is under the state group continuation law, you are not eligible for the extended election period.

When providing coverage to former employees who elect group continuation coverage during the extended election period, employers may not apply pre-existing condition coverage limitations based on a gap in coverage between the layoff and commencement of the group continuation coverage.

**NOTE:** The subsidy is available starting after February 17, 2009 and applies only to coverage purchased after that date. The subsidy is not retroactive.

### **What if an Employer Refuses to Provide Group Continuation Coverage or Refuses to Provide the Subsidy?**

The new law requires the federal Department of Labor to provide an expedited review of any employer's refusal to allow a worker to elect group continuation coverage and receive the subsidy. Once the denied individual submits an application for review, the Department of Labor shall make an eligibility determination within 15 business days. If you have additional questions about these reviews, contact the Department of Labor at 1-866-444-3272 or visit <http://www.dol.gov/ebsa/COBRA.html>.

### **Does the New Law Extend the Length of Available Group Continuation Coverage?**

The new law does not change the length of time that group continuation coverage must be provided to eligible individuals: COBRA typically provides for up to 18 months of coverage, while state continuation law provides for up to 6 months of coverage.

### **Will Individuals be Eligible for the Subsidy for as Long as They Are Eligible for Group Continuation Coverage?**

The subsidy will not necessarily last as long as your group continuation coverage. For example, former employees typically qualify for up to 18 months of COBRA coverage. The subsidy lasts up to 9 months. Therefore, an eligible individual who chooses to pay for 18 months of COBRA coverage after March 1, 2009 would still have to pay 9 months of unsubsidized premiums.

### **Can an Individual Lose Eligibility for the Group Continuation Subsidy?**

An individual can lose eligibility for the group continuation subsidy in three ways. First, as mentioned above, the subsidy lasts no longer than 9 months. Second, an individual becomes ineligible for the subsidy when continuation coverage ends or, third, the individual becomes eligible for new group health coverage or Medicare.

- Individuals must notify their former employer when they become eligible for new group health coverage.
- Individuals who willfully neglect to notify their former employer of their eligibility for a new group health plan must repay 110% of the subsidy to the federal government. No penalty will be imposed if the individual demonstrate "reasonable cause" for the failure.

**NOTE:** Rules governing eligibility for subsidized COBRA differ from rules governing eligibility for unsubsidized COBRA. Eligibility for unsubsidized COBRA ends only when an individual enrolls in new group coverage or Medicare. However, simply being eligible for new group health coverage disqualifies an individual from receiving the COBRA subsidy.

**Does the Subsidy Affect Eligibility for other Income-Based Government Programs?**

The subsidy will not be counted as income in determining eligibility for, or assistance provided under, any other federal or state program.

**For More Information**

Ohio insurance consumers with questions and concerns about their insurance can call the Department's consumer hotline at 1-800-686-1526. Free information can also be obtained at [www.ohioinsurance.gov](http://www.ohioinsurance.gov).