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The COBRA subsidy in the
American Recovery and Reinvestment Act of 2009 (the stimulus bill)

Answers to Frequently Asked Questions

Congress has passed the American Recovery and Reinvestment Act of 2009 (H.R. 1), also known as the economic stimulus bill. This FAQ is specific to one provision of the Act - the Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage subsidy ("COBRA Subsidy").

The COBRA Subsidy will have considerable impacts on employers and health carriers. The implementation of the COBRA Subsidy will develop over time and we will update this FAQ as needed.

Questions	Answers
Background and General Provisions	
When was the bill signed into law?	President Obama signed the bill into law on February 17, 2009.
Why did Congress pass the COBRA subsidy provisions?	The intent of the COBRA subsidy is to assist people who involuntarily lose their jobs during the current economic downturn to retain their health insurance, subsidized for at least nine months after their job loss.
How much is the subsidy?	The qualifying individual will be responsible for paying 35% of the COBRA premium. The employer will be responsible for the remaining 65%.
When is the subsidy available? And how long will it last?	The COBRA subsidy will be available for the period of coverage that begins after the date of enactment. For plans that administer COBRA on a calendar month basis, this is March 1. The subsidy is available for 9 months of coverage. The subsidy does not change or extend the overall COBRA continuation coverage, which is usually 18 months from the qualifying event.
What coverage is eligible for the subsidy?	All health plan coverage that is normally available to COBRA qualified individuals, except Flexible Spending Arrangements (FSAs), are eligible for the subsidy.
Is there a subsidy for state continuation coverage as well?	The federal stimulus law says that the subsidy extends to plans offered under state statutes "comparable" to COBRA for employers with 19 or fewer employees. The eligibility of state continuation or "mini-COBRA" varies by state. Washington's continuation provisions do not currently qualify for the subsidy.

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COBRA Subsidy – Eligibility and Qualifications	

Who is eligible for the COBRA subsidy?	An individual of a certain income, who loses coverage as a result of an involuntary termination between September 1, 2008 and December 31, 2009 and is eligible for COBRA, can qualify for the COBRA subsidy. The following describes specific circumstances:
	• the loss of coverage due to involuntary termination of the covered employee's employment during September 1, 2008 through December 31, 2009;
	• a current qualified beneficiary who elected COBRA on or after September 1, 2008;
	• a qualified beneficiary who elected COBRA on or after September 1, 2008, but stopped paying premiums (**refer to special open enrollment/second chance election question below);**
	• an individual who experienced a qualifying event between September 1, 2008 and February 17, 2009 but did not elect COBRA; or
	• an individual who is involuntarily terminated between February 17 and December 31, 2009.
	
	Additional considerations include:
	• Income restrictions:
	    o Annual adjusted gross income below $145,000 for individual or $290,000 for joint filers.
	    o If adjusted gross income is between $125,000 and $145,000 ($250,000 and $290,000 for joint filers), the subsidy will be reduced proportionately**.**
	• Qualified beneficiaries may be the employee, spouse, and/or dependent who may also receive the subsidy.
	• "Involuntary termination" was not defined in the law, but it does not include termination for "gross misconduct."

What if I was involuntarily terminated after September 2008, but didn't elect COBRA? Can I elect COBRA now?	Yes. For individuals who were involuntarily terminated within the timeframe and qualify for the subsidy, there will be a special open enrollment period. This is a second chance to elect COBRA on a going-forward basis. Coverage will start on March 1, 2009 if elected. This option **is** available if an eligible employee has an individual health plan – however, if an employee has other group coverage they **can not** take advantage of this special Stimulus enrollment. The individual should receive a notice from their previous employer regarding this option and will have 60 days from receiving the notice to elect COBRA coverage.

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What if I was involuntarily terminated in November 2008 and elected COBRA, but let my COBRA lapse because I couldn't afford it. Can I restart COBRA and receive the subsidy?	Yes. The same special open enrollment period will be available to those that lapse their coverage due to non-payment.
What if I took a buyout package from my employer and voluntarily agreed to leave? Will I qualify for the subsidy?	The law does not address this issue. Additional clarification will be available from the Treasury Department and the Department of Labor via regulations.
Communication, Roles and Responsibilities	
Where can I get specific information from the federal regulators on this new law?	The following federal agencies are providing guidance and FAQs regarding the implementation of the new law to help employers and individuals. **Department of Treasury and Internal Revenue Service** http://www.irs.gov/newsroom/article/0,,id=204505,00.html **Department of Labor** http://www.dol.gov/ebsa/cobra.html
Other Scenarios*	
If an employer pays for a couple of months of COBRA as part of a severance agreement how does the premium subsidy apply? For example, the premium subsidy amount (35 percent) started for Jane on March 1, 2009, but the company is paying her COBRA premiums through May 31, 2009. Does she have six months left of the subsidy premium (March 1, 2009, to Aug. 31, 2009) OR does she get the six-month premium subsidy from the end of the period that the company pays her COBRA premiums (she would get to pay 35 percent from June 1, 2009 to November 2009)?	This is a very typical fact pattern for many employers and comes in many variations. The IRS Notice 2009-27 provides guidance on these issues as well. To put it in perspective, consider two aspects of the question: (a) an "amount" issue; and (b) a "duration" issue. **Amount Issue -** If an employer subsidizes a portion of COBRA coverage and the qualified beneficiary is eligible for an ARRA subsidy, he or she only has to pay 35 percent of what was actually otherwise charged by the plan. Example: Assume the normal monthly COBRA premium is $1,000 (including the 2-percent administrative fee) and the employer charges certain ex-employees only $200 because they were laid off. The ex-employees who are subsidy-eligible only need to pay $70 (35 percent of $200), and the employer's tax credit is only $130 (65 percent of $200). In the extreme case where COBRA coverage is free for a certain period, then the ex-employee pays nothing and there is no subsidy or tax credit. **Duration Issue -** Two "duration" issues are raised by severance situations. Some employers will provide for a period of severance-based continued coverage for a limited period and then add to that 18 months of true COBRA coverage. For example, ex-employees would be treated as actives for three months and then COBRA would start. *Continued next page…*

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	The COBRA subsidy is not available for non-COBRA severance continued coverage. So in the example where the employer provides three months of free coverage followed by COBRA coverage for up to 18 months, the subsidy does not start until after the three-month period, and then it lasts for up to nine months. On the other hand, when the severance “deal” is that COBRA coverage is free for, say, three months, then the three-month period counts toward the nine months and there is no subsidy available for those three months. Instead, any monetary subsidy would be for six months.
If the nine-month subsidy period is during COBRA’s disability extension period (months 19-29), does the qualified beneficiary who is an AEI pay 35 percent of the 150-percent disability premium amount?	Based on the calendar, this cannot happen. The earliest that an involuntary termination of employment could have occurred for which a subsidy applies is Sept. 1, 2008. That means that the potential COBRA coverage period would run for 18 months from Sept. 1, 2008 — that is, through February 2010 — before the disability extension and increased premium would occur. In this situation, the subsidy, if applicable, would have started March 1, 2009, and lasted from nine months (through November 2009), which would end before the earliest disability extension period.
Will COBRA participants have their coverage terminated if Premera does not receive payment from the group or COBRA administrator within the standard grace period?	In some cases, the new requirements are causing delays for COBRA administrators in forwarding payment to carriers. Premera pends claims in these situations, but does not terminate the member. EOBs are mailed to the member stating “member not eligible.” If a COBRA member receives this message, they should contact their previous employer and request a status. Once payment is received, claims are released for processing. A request for reprocessing is not necessary. In the event that payment is not received, standard termination procedures are followed.

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