



# The American Recovery and Reinvestment Act of 2009

## COBRA Administration Updates

How the new law affects employers subject to federal COBRA;

- Subsidy will be available for individuals involuntarily terminated from employment from September 1, 2008 through December 31, 2009.
- A **65 percent subsidy for nine (9) months** of COBRA will be available for those individuals who qualify. If an employer voluntarily agrees to pay a portion of COBRA coverage, the employee will be required to pay 35 percent of the portion of the premium not paid by the employer.
- The subsidy will apply beginning with the individual's first premium period following the enactment and will continue for the duration of the nine (9) month period.
- The qualified individual will be entitled to the 65 percent subsidy until he or she becomes eligible for other coverage, the exhaustion of the nine (9) month period, or failure to make timely premium payments
  - Other coverage is defined as other group health plan coverage or Medicare
  - During the subsidy period the qualified beneficiary must show proof of eligibility for other coverage
  - Failure to provide such proof may result in penalty charges of 110 percent of the improperly paid subsidy amount
  - Excluded plans include; counseling or referral services, FSA, HRA or onsite medical clinic that primarily consists of first aid treatment.
- The subsidy is available prospectively only
  - Individuals already participating in COBRA coverage who fit the above criteria will not be reimbursed for premiums previously paid
- The subsidy would not be available to individuals with an annual income in excess of \$145,000 (\$290,000 for married couples). Any qualified beneficiary whose income exceeds \$125,000, but less than \$145,000 will have an increase in federal income tax by the amount of COBRA subsidy overpayments made on his or her behalf.
- The additional election period will be made available for anyone who meets the criteria for subsidy on the date of enactment up to 60 days after the notices are provided.
- There will be no effect on pre-existing condition limitations for the qualified beneficiary based on the new election. The 63-day break in coverage rule does not apply to the period from which the original event occurred and through the new election date and will not count against the qualified beneficiary as a break in coverage.
- The employer may allow the subsidy eligible qualified beneficiary to elect the same level of coverage that was in effect immediately prior to the original qualifying event or any lesser cost level of coverage available to active employees.
- There is no effect on the timing of notices for those who are subsidy eligible after the law is enacted—the 44-day rule continues. The provision requires any subsidy eligible qualified beneficiary to be notified within 60 days of enactment.



## CBIZ COBRA Responsibilities

- Administer new temporary subsidy for COBRA premiums – 65% subsidy and 35% premium
- Identify the 9 month period for the subsidy
- Provide a form for participants to verify no other coverage available through a group plan or Medicare
- CBIZ COBRA will process QB data and send out an additional notice which includes another 60-day election period for anyone who did not elect initially, since 9/1/08, who is eligible for subsidy based on the employer provided information\*
- Of those who are re-notified and elect, begin the COBRA billing process to include 65 percent subsidy beginning on the first billing period after enactment.

## Employer Responsibilities

- Review any separation or severance agreements that include information regarding an employee's right to continue benefits under group health plan in light of this provision
- Review insurance contracts and stop-loss contracts to ensure individuals who are electing during the extension period will be offered coverage
- Employers will be required to furnish reports to the Treasury Department containing information regarding the subsidy eligible employees
- Identify any employees who have been or will be involuntarily terminated between 9/1/08 to current and furnish CBIZ COBRA the information\* for re-processing of COBRA election notices
- Report any individuals subject to lay off from 3/1/09 to 12/31/09 to CBIZ via website entry
- Exclude any individuals earning greater than \$145,000

## Other Information for Employers

- For a short period of time until necessary procedures are in place, the employer may require full premium
- The employer may issue credit for any premium payments made by the qualified beneficiary during the first two coverage periods beginning immediately after enactment.
  - The employer may reimburse the participant
  - The employer may treat the reimbursement as credit toward payroll tax
  - Credit the overpayment toward future premium payments (to be exhausted within 180 days)

\*Forms have not been published by the appropriate agency at this time



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