

Silicon Benefits Insider

April 2009

American Recovery and Reinvestment Act of 2009

The Department of Labor issued four model COBRA notices to reflect the requirements of the American Recovery and Reinvestment Act of 2009 ("ARRA"). ARRA introduced a new temporary COBRA premium subsidy for employees who lose health coverage under an employer's group health plan as the result of their involuntary termination between September 1, 2008, and December 31, 2009. The COBRA premium subsidy was described in detail in our March 6, 2009, Legal Update. All individuals who became eligible for COBRA since September 1, 2008, must receive a new notice by April 18, 2009, advising them of the subsidy, regardless of whether they meet the eligibility requirements for the subsidy or if they are currently on COBRA.

COBRA Temporary Premium Assistance in Economic Stimulus Package

On Tuesday, February 17th, 2009, President Obama signed into law The American Recovery and Reinvestment Act of 2009, which contained the following COBRA provision.

The American Recovery and Reinvestment Act provides a 65% federal subsidy for up to 9 months of COBRA for individuals who became eligible for COBRA coverage from September 1, 2008 through December 31, 2009 due to involuntary termination of employment.

When would the temporary premium assistance end?

COBRA premium assistance would end on the first date that an individual is eligible for coverage under any group health plan or Medicare. Coverage under any group health plan does not include coverage consisting of only dental, vision, counseling, or referral services, coverage under a health reimbursement arrangement, or a health flexible spending arrangement, or coverage of treatment that is furnished in an on-site medical facility maintained by an employer and that consists primarily of first-aid services, prevention and wellness care. COBRA qualified beneficiaries receiving premium assistance must notify the group health plan in writing when they become eligible for other coverage, or face a penalty (110% of the premium reduction). Even if a COBRA qualified beneficiary did not obtain other coverage of the type listed above, premium assistance would end the earliest of 9 months after the date of enactment of the stimulus package or at the end of the maximum period of continuation coverage.

What is the effective date of COBRA coverage for former workers electing COBRA under the special COBRA election period? According to the Act, COBRA coverage will begin on the first period of coverage beginning on or after the enactment date of the law. The Act refers to a period of coverage as a period for which premiums are charged.

Length of COBRA

COBRA coverage will not extend beyond the COBRA period that would have been required if COBRA had been originally elected. For example: If

Below is the link for the Four COBRA Notices:
[COBRA Notice](#)

Special COBRA Election Period

The Act creates a special COBRA election period for individuals who did not elect COBRA during their original election period that occurred sometime on or after

September 1, 2008 or are currently in their COBRA election period and have not made the COBRA election as of the enactment date. This special COBRA election period begins with the enactment date of the law and ends 60 days after the notice of availability of premium assistance is provided by the plan sponsor. The enactment date of the law was February 17th, 2009.

Premium Assistance Reimbursement

The government subsidy is obtained through a reduction in payroll taxes. Any overstatement of the reimbursement will be treated as an underpayment of payroll taxes. The entity to whom COBRA premiums are payable is the entity entitled to the government reimbursement subsidy.

Creditable Coverage

The law gives terminated workers some assistance in not triggering a 63-day break in coverage for HIPAA creditable coverage purposes. The time period beginning on the date of the qualifying event and ending with the day before the date of enactment of the

a worker was laid off on September 1, 2008 and did not elect COBRA, this worker, if he elected COBRA under the special COBRA election period, would be entitled to COBRA for the remaining months left of the original 18-month qualifying event that occurred on September 1, 2008. COBRA coverage would not be retroactive to September 1, 2008.

New Notice

The Act requires that a new notice must be provided by plan administrators within 60 days after the law is enacted to all workers let go since September 1, 2008 who became eligible for COBRA. The purpose of the notice is to inform these former workers of their new opportunity to elect COBRA and receive a subsidy from the federal government of 65% of the premium. SILICON BENEFITS will provide the newly required notice to identified members.

Flexible Spending Accounts

COBRA premium assistance is not available for health flexible spending arrangements.

Reporting

Plan sponsors are required to submit reports to the Treasury detailing the amount of payroll taxes offset as well as estimated offsets for subsequent reporting periods.

Premium Subsidy Not Taxable

The premium assistance does NOT have to be included in the gross income of the COBRA qualified beneficiary.

Act will be disregarded for purposes of determining the 63-day break in coverage.



Action Plan

SILICON BENEFITS will begin the process of identifying the individuals who are eligible to receive notice for the temporary premium assistance. **SILICON BENEFITS** will scrutinize the qualifying events since September 1, 2008 that have triggered COBRA notices to determine which ones are due to involuntary termination, as opposed to voluntary termination or retirement for example. A listing of the identified individuals will be forwarded to Plan Sponsors.

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