



**Updated April 1, 2009**

## **Federal Stimulus – COBRA Premium Assistance Information for Large Employers and Insurers**

### **Are the requirements under the federal stimulus bill identical for large employers and small employers?**

No, this fact sheet contains information relevant for large employers, those with 20 or more employees. For information on premium assistance for employees of small employers, please refer to the fact sheet for small employers and insurers providing coverage under state continuation law. The fact sheet is available here:

<http://insurance.ohio.gov/ConsumServ/COBRAStimulusSmallEmployers.pdf>.

### **Will large employers, those with 20 or more employees, have to pay the 65% of the COBRA premium?**

After receiving the 35% of the COBRA premium from the former employee, the 65% of the premium paid by (or not received by) the employer, insurer or health plan is reimbursable as a credit against certain payroll taxes. If the credit amount is greater than the taxes due, the Secretary of the Treasury will directly reimburse the employer, insurer or health plan for the excess.

### **When more than one entity may be responsible for receiving COBRA premiums, who should claim the credit?**

The law as enacted clarifies that the person to whom the reimbursement is payable is (1) the multiemployer group health plan, (2) the employer maintaining a group health plan that is subject to Federal COBRA continuation coverage requirements or (3) the insurer providing coverage under an insured plan. Only this person is eligible to offset its payroll taxes by the amount of the subsidy.

### **How do you claim the credit for the COBRA subsidy?**

The COBRA subsidy amount is reimbursed by being claimed as an employment tax credit on the IRS Form 941. The credit is claimed on Line 12a of the January 2009 revision of the Form 941, which was posted on the IRS website on February, 20, 2009.

### **Where can I get more information regarding how to claim the credit?**

The IRS has posted a COBRA subsidy information website at:

<http://www.irs.gov/newsroom/article/0,,id=204505,00.html>.

The IRS has posted a detailed COBRA Answers for Employers website at:  
<http://www.irs.gov/newsroom/article/0,,id=204708,00.html>.

**Can an employer decide only to claim the credit at the end of the quarter rather than reducing its tax deposits during the quarter?**

Yes. The employer can decide either to offset its payroll tax deposits or claim the subsidy as an overpayment at the end of the quarter.

**When does the law become effective?**

The law became effective on the date of enactment, February 17, 2009. However, under a transition rule, the regular premium amount may continue to be paid by the former employee for up to two months after enactment (e.g., for March and April), and the subsidy can be provided retroactively.

**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 an employee was involuntarily terminated on or after September 1, 2008, and initially declined to elect group continuation coverage, or elected group continuation coverage and later stopped paying premiums, the employer must notify the former employee of an additional opportunity to elect group continuation coverage and receive the subsidy. 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. Employers with less than 20 employees under the state group continuation law are not required to offer the extended election period.

**Do employers have additional notice requirements?**

Yes. Plan administrators must provide notice about the premium reduction to individuals who have a COBRA qualifying event during the period from September 1, 2008 through

December 31, 2009. Plan administrators may provide notices separately or along with notices they provide following a COBRA qualifying event. This notice must go to all individuals, whether they have COBRA coverage or not, who had a qualifying event from September 1, 2008 through December 31, 2009.

Individuals eligible for the special COBRA election period described above also must receive a notice informing them of this opportunity. This notice must be provided within 60 days following February 17, 2009.

Model notices, released by the Department of Labor on March 19, 2009, can be found at: <http://www.dol.gov/COBRA>

**When more than one entity may be responsible for receiving COBRA premiums, who should claim the credit?**

The law as enacted clarifies that the person to whom the reimbursement is payable is (1) the multiemployer group health plan, (2) the employer maintaining a group health plan that is subject to Federal COBRA continuation coverage requirements or that is self-insured, or (3) the insurer providing coverage under a plan not included in (1) or (2). Only this person is eligible to offset its payroll taxes by the amount of the subsidy.

**Is the large employer required to provide the COBRA subsidy?**

The subsidy requirement applies to group health plans that are subject to the Federal COBRA continuation coverage requirements. If you are an employer with such a plan and you receive a 35 percent payment from an assistance-eligible individual, you are required to consider this payment as payment in full for COBRA coverage.

**What if the employer's group health plan is self-insured? Do the subsidy requirements apply?**

Yes, the subsidy requirements apply to all plans subject to the COBRA requirements, including self-insured plans. In that case, the employer must provide the COBRA coverage if the assistance eligible individual pays 35 percent of the otherwise required premium. The remaining 65 percent is treated as a payment of payroll taxes by the employer maintaining the plan.

**What other agencies will provide information about the COBRA subsidy?**

Information about the COBRA subsidy will also be available through the Department of Labor and the Department of Health and Human Services, which, along with the IRS, share responsibility for the COBRA requirements.

Visit the Department of Labor Web site at <http://www.dol.gov/ebsa/cobra.html> for information related to COBRA eligibility and the subsidy. Benefits Advisors are also

available to assist you at 1-866-444-3272.

Visit the IRS COBRA Health Insurance Continuation Premium Subsidy at <http://www.irs.gov/newsroom/article/0,,id=204505,00.html>.

Visit the IRS to find Information Related to Tax Provisions in the American Recovery and Reinvestment Act of 2009 at <http://www.irs.gov/newsroom/article/0,,id=204708,00.html>.

Visit the House Committee on Education and Labor fact sheet at <http://edlabor.house.gov/blog/2009/02/health-coverage-for-the-unempl.shtml>.

Contact the Ohio Department of Insurance for questions regarding the state continuation law at 1-800-686-1526.