

**BENEFIT ISSUES LISTSERV 3/18/2009**

**CONTENT AREA**

Understanding the American Recovery and Reinvestment Act of 2009 (ARRA)

**ISSUE/QUESTION**

What are the provisions for the new American Recovery and Reinvestment Act of 2009 (ARRA)?

**ANSWER**

Please refer to the attached document and share this information with your staff that may not have access to listserv. There is a PDF version and a Word version for your convenience.

**ISSUED**

March 18, 2009

<p style="text-align: center;"><b>Understanding the COBRA premium assistance provisions of the American Recovery and Reinvestment Act of 2009 (ARRA)</b></p>
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**COBRA premium assistance**

Under a new federal law enacted February 17, 2009, a person who is eligible for COBRA premium assistance will be entitled to COBRA coverage – for a limited time only – at a reduced rate. Under this program, the individual pays 35% of the COBRA premium and the federal government subsidizes the remaining 65%.

**Eligibility**

A person is eligible for COBRA premium assistance if and only if:

- He/she is eligible for COBRA coverage between September 1, 2008 and December 31, 2009.

AND

- The qualifying event that makes him/her eligible for COBRA coverage is a covered employee's employment being **involuntarily terminated** between September 1, 2008 and December 31, 2009.

A person terminated for gross misconduct is not eligible for COBRA and, therefore, would not be eligible for COBRA premium assistance.

Each qualified beneficiary (spouse and child) is entitled to elect COBRA coverage separately and will, if eligible, be entitled to premium assistance.

A domestic partner/older child is not a qualified beneficiary under COBRA, which prevents him/her from electing COBRA coverage separate from the former employee. A domestic partner/older child is eligible for premium assistance if the former employee is eligible for and elects premium assistance and:

- The domestic partner/older child was listed as a tax dependent on the former employee's Declaration of Tax Status form.
- OR
- The former employee enrolls at least two qualified beneficiaries in COBRA in addition to the domestic partner/older child. Under this scenario, the former employee elects the family tier with or without inclusion of the domestic partner/older child.

Individuals who are eligible for coverage under another group health plan (a spouse's plan, for example) are eligible for COBRA but are not eligible for premium assistance. Dependents who lose coverage due to the death or disability of an employee are not eligible for premium assistance.

Disputes regarding eligibility for premium assistance may be appealed to the Secretary of Health and Human Services. Details related to this appeal process are not available at this time. You may check the U.S. Department of Health & Human Services website ([www.hhs.gov](http://www.hhs.gov)) for updates on this appeal process.

**Agency proof of involuntary termination**

The Benefit Services Division will request proof of involuntary termination (copy of termination letter or similar document) from the former agency of any former employee who elects COBRA and states that he/she was involuntarily terminated.

### **COBRA coverage elections**

A person eligible for premium assistance will be allowed to maintain his/her pre-termination coverages. Premium assistance will apply to his/her medical, dental, and vision coverage (but not to flexible spending accounts).

A person eligible for premium assistance will be allowed to change his/her pre-termination coverages if those changes result in a reduced monthly premium compared to the pre-termination monthly premium (i.e., a person could move from a PPO plan to an EPO plan but not from an EPO plan to a PPO plan). If a qualified beneficiary was enrolled in a comprehensive medical plan on the day of the termination, his/her COBRA elections must include a comprehensive medical plan in order for the premium assistance to apply (i.e., a person enrolled in both medical and dental will be eligible for premium assistance on both plans as long as he/she continues enrollment in the medical plan; if he/she drops medical coverage, premium assistance will not be available for the dental plan). Any change made will be in effect starting the first day of the month following notification of the change and ending on the last day of COBRA coverage.

### **Duration of COBRA premium assistance**

Premium assistance is available for COBRA payments made for coverage periods beginning on or after February 17, 2009. Those eligible for premium assistance will receive the reduced COBRA rate for up to 9 monthly coverage periods.

Eligibility for premium assistance will end earlier if:

- The individual could be covered by another employer's comprehensive medical plan (even if such coverage is not elected). Under this scenario, premium assistance will not be available for periods of coverage beginning on or after the first date that the individual could actually be covered under the other plan.
- The individual becomes eligible for benefits under Title XVIII of the Social Security Act. Premium assistance would end on the date COBRA coverage ends.
- The individual's right to COBRA coverage expires. Premium assistance would end on the date COBRA coverage ends.

### **Option to decline premium assistance**

A person who is eligible for COBRA premium assistance may choose not to receive it.

### **New COBRA enrollment forms**

From now until the end of the COBRA premium assistance program, two COBRA enrollment forms will be available:

<b>Version</b>	<b>Description</b>	<b>Purpose</b>
A	Original COBRA enrollment form with full COBRA rates	To be used for persons not eligible for COBRA premium assistance or persons who decline premium assistance
B	New COBRA enrollment form with premium assistance COBRA rates	To be used for persons who elect the COBRA premium assistance benefit

### **Notification responsibilities of the Benefit Services Division**

#### **Employees notified about COBRA prior to availability of premium assistance**

Any employee who was terminated on or after September 1, 2008 and who was notified of his/her right to COBRA coverage before the availability of premium assistance will

receive an additional notice from the Benefit Services Division. These notices are currently scheduled to be mailed by March 31, 2009. They will outline information related to COBRA premium assistance and will include a copy of COBRA enrollment Form B. All recipients of the notice who were **involuntarily terminated** will have 60 days from the date on the notice to elect COBRA with premium assistance. This special enrollment period applies to those who initially elected COBRA, those who initially declined COBRA, and those who initially elected COBRA but have ceased coverage formally or through non-payment.

Current COBRA enrollees who elect premium assistance will be eligible for premium assistance beginning March 1, 2009 and ending as late as November 30, 2009.

New COBRA enrollees who elect premium assistance will be eligible for premium assistance beginning February 17, 2009 and ending as late as November 16, 2009.

The reduced rate will not apply retroactively to coverage periods that started before February 17, 2009. The maximum length of COBRA coverage will be determined based on the first date a person was eligible for COBRA regardless of whether he/she enrolled initially or during the premium assistance special enrollment period.

#### **Employees who have not yet been notified about COBRA**

Any employee who is eligible for COBRA coverage between September 1, 2008 and December 31, 2009 (and who does not fall within the prior group) will receive notification of COBRA premium assistance at the same time he/she is notified about the right to COBRA coverage. This notification packet will include both COBRA enrollment forms (A and B). All recipients of the notification will have 60 days from the date on the notification to elect COBRA coverage and to accept or decline premium assistance (if applicable). Those who are not eligible for or who decline premium assistance must complete Form A. Those who are eligible for and accept premium assistance must complete Form B. COBRA coverage (with or without premium assistance) will begin the day after coverage is lost due to the qualifying event.

#### **Notification responsibility of COBRA member**

A person receiving premium assistance must notify the Benefit Services Division if/when:

- A qualified beneficiary could be covered by another employer's comprehensive medical plan (even if such coverage is not elected).
- A qualified beneficiary becomes eligible for benefits under Title XVIII of the Social Security Act.

In accordance with ARRA, failure to make proper notification may result in a penalty of 110 percent of the subsidized amount received after eligibility is lost. Other details regarding proper notification are not available at this time. Periodic updates will be made available on the Benefit Options website ([www.benefitoptions.az.gov](http://www.benefitoptions.az.gov)) beginning March 26, 2009.

#### **How premium assistance may affect eligibility for other assistance programs**

Receiving premium assistance will generally not affect eligibility for other assistance programs.

#### **How premium assistance may affect taxes (high-income taxpayers only)**

This provision affects only those with modified adjusted gross incomes of more than \$125,000 (or \$250,000 for those taxpayers filing a joint return).

For tax purposes, COBRA enrollees who receive premium assistance will be provided with documentation detailing how much premium assistance they received in the tax year. Although this process is still under consideration, the information will likely be supplied on a Form W-2 or Form 1099.

Please refer to the following IRS website to learn more about the tax implications of premium assistance: <http://www.irs.gov/newsroom/article/0,,id=205370,00.html>

**Additional information**

Other important information (including examples of how premium assistance will be administered) will be available on the Benefit Options website ([www.benefitoptions.az.gov](http://www.benefitoptions.az.gov)) beginning March 26, 2009.