

Reinventing COBRA Under ARRA

Expanded Visalia Chamber of Commerce Article for April 2009

The American Recovery and Reinvestment Act of 2009 (ARRA), which was recently made part of employment law, includes major changes to Health Insurance Continuation under COBRA.

Under ARRA, workers who are involuntarily terminated from employment between September 1, 2008 and December 31, 2009 (and their qualified beneficiaries) may pay reduced COBRA premiums for a period of up to nine months. The federal government will subsidize 65% of the premium, and individuals are responsible for the remaining 35%. The new rules are in effect, premium subsidies have become available, and for most plans, the subsidies apply starting on March 1, 2009.

RESOURCES

US Department of Labor ARRA COBRA Resource Site:

<http://www.dol.gov/ebsa/cobra.html>

US Department of Labor Fact Sheet:

COBRA Premium Reduction:

<http://www.dol.gov/ebsa/pdf/fsCOBRApremiumreduction.pdf>

IRS ARRA COBRA Resource Site including updated [Form 941](#)

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

KEY PROVISIONS OF THE ARRA COBRA LAW

- **Employer Coverage.** Most employers providing group health plans must comply with the following changes, including employers subject to the federal COBRA rules and small employers subject to state mini-COBRA laws currently in effect.
- **Eligibility Limitation.** An “Assistance Eligible Individual” (AEI) is a qualified beneficiary who becomes eligible for COBRA continuation coverage between September 1, 2008 and December 31, 2009 resulting from their involuntary employment termination.
- **Likely Change in Payments.** AEIs may pay reduced COBRA premiums for coverage periods starting on or after the date of enactment (March 1st for most plans). Due to the short timeframe, however, some AEIs may have already paid or will submit full premium for coverage. In turn, the employer must either reimburse the AEI or provide a credit towards future premium payments.
- **Likely Change in COBRA Subsidy.** Affecting employers already subsidizing COBRA premiums, the determination of the subsidized premium amount is based on the premium amount the AEI is actually required to pay.
- **Subsidy Duration.** AEIs may receive subsidy payments for a maximum period of nine months, effective as of the first period of coverage beginning on or after the date of enactment.
- **Extended Election Period.** AEIs not enrolled in COBRA continuation coverage before the ARRA enactment may enroll during an extended election period which opens the date of enactment and ends 60 days after the plan administrator provides the individual notice of the extended election period.
- **Optional Plan Changes.** Employers may allow all AEIs to elect a different benefit coverage option within 90 days of the notice date. Similar to the election among existing coverage options an employer

may provide to qualified individuals after a qualifying event, this is an optional provision.

- **New Notice Requirements.** On top of providing COBRA continuation coverage notification based on a qualifying event, plan administrators during the subsidy period must also provide notice of the availability of premium reductions and, if the employer permits such option for AEIs, the option to enroll in different plan coverage.
- **Employer Reimbursement Procedures.** After receiving reduced COBRA premiums from AEIs, employers may offset periodic payroll tax deposits (wage withholding and FICA) by the remaining subsidy amounts.
- **Employer Reporting Requirements.** Employers seeking subsidy reimbursements must submit reports to the IRS.

RECOMMENDED NEXT STEPS

- Contact COBRA administrators to coordinate the new compliance responsibilities.
- For reporting requirements, identify employees of “involuntary terminations” occurring September 1, 2008 through the end of 2009.
- For employees involuntarily terminated on or after September 1, 2008, identify those without a current COBRA election in effect for purposes of the extended election period.