

Legislative Brief

COBRA Premium Subsidy: Congress Approves Extension



The American Recovery and Reinvestment Act of 2009 (ARRA) provided a temporary subsidy for the cost of COBRA continuation health coverage. On December 21, 2009, President Obama signed legislation **extending the COBRA premium subsidy**. The new law addresses the uncertainties employers were facing regarding the subsidy.

Eligibility Period – Extended through February 28, 2010

Before the subsidy extension, an individual had to be eligible for COBRA before December 31, 2009, in order to receive the premium subsidy. This was true even if the individual was involuntarily terminated from employment before December 31, 2009. The extension provides that individuals who become eligible for COBRA because of an involuntary termination occurring during the period from **September 1, 2008, through February 28, 2010**, will be eligible for the subsidy if they elect COBRA.

Length of Subsidy – Extended to 15 months

Initially, the COBRA premium subsidy was available to AEIs for a maximum of nine months. The new legislation extends the premium subsidy period by six months to a total of **15 months**. However, employees and employers should keep in mind that the COBRA premium subsidy does not affect the length of COBRA coverage itself.

Retroactive Payments – How to Handle Employees Caught in the Middle

The new law contains provisions regarding AEIs whose 9-month subsidy period expired before the extension was passed. These AEIs may have let their COBRA coverage lapse because it was too costly without the subsidy. Others may have kept the coverage and started paying the full amount of the premium. These AEIs will be able to benefit from the subsidy extension retroactively. Special notices to these individuals are required, as explained below. AEIs who failed to pay their COBRA premiums once their initial subsidy period expired can retroactively pay the premiums to maintain COBRA at subsidized rates for the additional six months. The premiums must be paid no later than **February 19, 2010, or 30 days after the AEI receives notice** of the extension, whichever is later. If an AEI paid the full amount of the COBRA premiums after the 9-month subsidy period ended, but is now eligible for additional assistance, the employer must either reimburse the individual for the excess premium amount paid or provide a credit that reduces later premium payments.

Notice Requirements

The legislation includes additional notice requirements for group health plans. In general, plan administrators must provide notice of the subsidy extension to individuals who are AEIs at any time on or after October 31, 2009. The notice must be provided by **February 19, 2010**. Also, election notices sent to individuals who experience a qualifying event on or after October 31, 2009, must include information regarding the subsidy extension.

The new law also requires notices to the following individuals: (a) those who are eligible to make retroactive premium payments because they let their COBRA coverage expire once their subsidy period ended, and (b) those who are entitled to receive reimbursement or credit because they are eligible for additional assistance but paid the full amount of the premium for coverage. The plan administrator must notify these individuals of the subsidy extension within the first 60 days of the individual's transition period. The transition period includes any period of coverage beginning before December 21, 2009, that will now be covered by the subsidy due to the extension.

Please contact your FAS-EBA, Inc. representative with any questions.

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