

Legislative Brief

COBRA Premium Subsidy Extended through March 2010



The American Recovery and Reinvestment Act of 2009 (ARRA) provided a temporary subsidy for the cost of COBRA continuation health coverage. The COBRA premium subsidy was extended for the first time in December 2009. On March 2, 2010, the Temporary Extension Act of 2010 extended the eligibility period for the subsidy again. The Temporary Extension Act also clarifies some questions regarding the subsidy and provides premium subsidy eligibility for individuals who experienced a reduction in hours of employment before their involuntary termination.

Please read below for more information and contact your FAS-EBA, Inc. representative with any questions.

Eligibility Period – Extended through March 31, 2010

Before the most recent extension, an employee had to be involuntarily terminated from employment between September 1, 2008 and February 28, 2010 to be eligible for the COBRA premium subsidy. This eligibility period has been extended so that individuals experiencing an involuntary termination of employment **through March 31, 2010** are now eligible for the subsidy.

Although the extension was not passed until March 2, it is effective as if it were part of the original law. That means that individuals who were involuntarily terminated on March 1 are eligible for the extension. The maximum length of the premium subsidy was not extended – it remains 15 months.

Premium Subsidy Eligibility – Reduction in Hours followed by Involuntary Termination

In general, to qualify for the COBRA premium subsidy, individuals must experience a COBRA qualifying event that is the involuntary termination of a covered employee's employment, during the period beginning September 1, 2008 and ending March 31, 2010. Under the Temporary Extension Act, an involuntary termination of employment that occurs on or after March 2, 2010, and follows a qualifying event that was a reduction of hours that occurred from September 1, 2008 through March 31, 2010, is also a qualifying event for purposes of the premium subsidy.

If an individual did not elect COBRA after the reduction in hours of employment (or elected and later discontinued it), he or she will have another opportunity to elect based on the involuntary termination of employment if it occurred on or after March 2, 2010. However, the length of the COBRA coverage period will be determined as though the qualifying event were the reduction of hours of employment.

Notice Requirements

Individuals who are eligible for the premium subsidy based on a reduction of hours followed by an involuntary termination must be given notice regarding eligibility for the premium subsidy and the special election provision. Notice must be provided **within 60 days of the involuntary termination of employment**. Model notices have not yet been issued with respect to this requirement.

Additional Provisions

In addition to these changes, the Temporary Extension Act clarified the payment deadline and the definition of the term "transition period" for assistance-eligible individuals (AEIs) whose 9-month subsidies lapsed before the December 2009 extension. It also provided enforcement measures – civil actions and \$110 per day fines – for employers that fail to comply with a determination by the Department of Labor that an individual is an AEI.

This Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.