

# DOL Releases Model Language for COBRA Premium Assistance Extension Notice

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Despite having stated that the Department of Labor had no duty to release Model language for employer plan sponsors related to the extended COBRA subsidy provisions, the Department of Labor has released information that plan sponsors may use in fulfilling their responsibility for a good faith compliance effort with communicating and administering such provisions. Attached to this Bulletin is the Model Premium Assistance Extension Notice as drafted by the DOL. The model notice is also available for review by visiting the DOL website at:

[http://www.reginfo.gov/public/do/PRAViewIC?ref\\_nbr=200912-1210-002&icID=188172](http://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=200912-1210-002&icID=188172)

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**Model Premium Assistance Extension Notice**

**(For use by group health plans (and other entities) for individuals who were receiving premium assistance as of October 31, 2009 including individuals who have received the full nine months of premium assistance required under ARRA and either did not make any payment for subsequent periods of coverage or made payment of the full premium otherwise required to maintain coverage absent the subsidy; and individuals who became Assistance Eligible Individuals or experienced a qualifying event that was the termination of a covered employee's employment on or after October 31, 2009 but who were not provided a notice that included the information required by ARRA, as amended.)**

[Enter date of notice]

Dear: [Identify the qualified beneficiary(ies), by name or status]

**This notice contains important information about additional rights you may have related to your COBRA continuation coverage in the [enter name of group health plan] (the Plan). Please read the information contained in this notice very carefully.**

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act, 2010, reduces the COBRA premium in some cases. You are receiving this notice because you [*were receiving premium assistance as of October 31, 2009; became an Assistance Eligible Individual or experienced a qualifying event that was the termination of a covered employee's employment on or after October 31, 2009 but were not provided a notice that included the information required by ARRA, as amended; or received the full nine months of premium assistance required under ARRA and either did not make any payment for subsequent periods of coverage or made payment of the full premium otherwise required to maintain coverage absent the subsidy*]. If you experienced an involuntary termination of employment you may be eligible for the temporary premium reduction for up to 15 months. **To help determine whether you can get the ARRA premium reduction, you should read this notice and the attached documents carefully. In particular, reference the "Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended" with details regarding eligibility, restrictions, and obligations.**

## **Important Information about Your COBRA Continuation Coverage Rights**

### **How much does COBRA continuation coverage cost?**

Generally, each qualified beneficiary may be required to pay the entire cost of continuation coverage. The amount a qualified beneficiary may be required to pay may not exceed 102 percent (or, in the case of an extension of continuation coverage due to a disability, 150 percent) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated plan participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act, 2010, reduces the COBRA premium in some cases. The premium reduction is available to certain individuals who experience a qualifying event relating to COBRA continuation coverage that is an involuntary termination of employment during the period beginning with September 1, 2008 and ending with February 28, 2010. If you qualify for the premium reduction, you need only pay 35 percent of the COBRA premium otherwise due to the plan. This premium reduction is available for up to 15 months. If your COBRA continuation coverage lasts for more than 15 months, you will have to pay the full amount to continue your COBRA continuation coverage. See the attached "Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended" for more details, restrictions, and obligations as well as the form necessary to establish eligibility.

*[If employees might be eligible for trade adjustment assistance, the following information must be added:* The Trade Act of 2002 created a tax credit for certain individuals who become eligible for trade adjustment assistance and for certain retired employees who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC). Under the tax provisions, eligible individuals can either take a tax credit or get advance payment of 65% of premiums paid for qualified health insurance, including continuation coverage. ARRA made several amendments to these provisions, including an increase in the amount of the credit to 80% of premiums for coverage before January 1, 2011 and temporary extensions of the maximum period of COBRA continuation coverage for PBGC recipients (covered employees who have a nonforfeitable right to a benefit any portion of which is to be paid by the PBGC) and TAA-eligible individuals.

If you have questions about these provisions, you may call the Health Coverage Tax Credit Customer Contact Center toll-free at 1-866-628-4282. TTD/TTY callers may call toll-free at 1-866-626-4282. More information about the Trade Act is also available at [www.doleta.gov/tradeact](http://www.doleta.gov/tradeact).]

### **When and how must payment for COBRA continuation coverage be made?**

#### *Changes to grace periods for certain payments*

Under normal circumstances, you have a grace period of at least 30 days after the first day of the coverage period to make each periodic payment. If you fail to make a periodic payment before the end of the grace period for that coverage period, you would lose all rights to continuation coverage under the Plan. However, the Department of Defense Appropriations Act, 2010 provides an extended period of time for certain periods of coverage. If you have reached the end of the reduced premium period before the legislation extended it to 15 months, you can make a

retroactive payment of the reduced premium(s) for the period(s) of coverage immediately following what would have been the last period subject to the premium reduction. This payment must be made by February 17, 2010 or, if later, within 30 days from the date this notice was provided to you.

All payments for continuation coverage should be sent to:

*[enter appropriate payment address]*

You may contact *[enter appropriate contact information, e.g., the Plan Administrator or other party responsible for COBRA administration under the Plan]* to confirm the correct amount of your first payment or to discuss payment issues related to the ARRA premium reduction.

### **For more information**

This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your original COBRA election notice, the summary plan description, or from the Plan Administrator.

If you have any questions concerning the information in this notice, your rights to coverage, or if you want a copy of your summary plan description, you should contact *[enter name of party responsible for COBRA administration for the Plan, with telephone number and address]*.

Private sector employees seeking more information about rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, can contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) at 1-866-444-3272 or visit the EBSA website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa). State and local government employees should contact HHS-CMS at [www.cms.hhs.gov/COBRAContinuationofCov/](http://www.cms.hhs.gov/COBRAContinuationofCov/) or [NewCobraRights@cms.hhs.gov](mailto:NewCobraRights@cms.hhs.gov).

### **Keep Your Plan Informed of Address Changes**

In order to protect your and your family's rights, you should keep the Plan Administrator informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.



## Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended



President Obama signed the American Recovery and Reinvestment Act (ARRA) on February 17, 2009. On December 19, 2009, the President signed the Department of Defense Appropriations Act, 2010. These laws give “Assistance Eligible Individuals” the right to pay reduced COBRA premiums for periods of coverage beginning on or after February 17, 2009 and can last up to 15 months.

To be considered an “Assistance Eligible Individual” and get reduced premiums you:

- **MUST** have a continuation coverage election opportunity related to an involuntary termination of employment that occurred at any time from September 1, 2008 through February 28, 2010;
- **MUST** elect the coverage;
- **MUST NOT** be eligible for Medicare; AND
- **MUST NOT** be eligible for coverage under any other group health plan, such as a plan sponsored by a successor employer or a spouse’s employer.\*

Individuals whose 9 month premium reduction ended also have an opportunity to make a payment to continue coverage at the reduced rates. These payments must be made by February 17, 2010 or, if later, within 30 days from receipt of the notice regarding the ARRA amendment that extended the premium reduction to 15 months.

### ◆ IMPORTANT ◆

- ◇ If, after you elect COBRA and while you are paying the reduced premium, you become eligible for other group health plan coverage or Medicare you **MUST** notify the plan in writing. If you do not, you may be subject to a tax penalty.
- ◇ Electing the premium reduction disqualifies you for the Health Coverage Tax Credit. If you are eligible for the Health Coverage Tax Credit, which could be more valuable than the premium reduction, you will have received a notification from the IRS.
- ◇ The amount of the premium reduction is recaptured for certain high income individuals. If the amount you earn for the year is more than \$125,000 (or \$250,000 for married couples filing a joint federal income tax return) all or part of the premium reduction may be recaptured by an increase in your income tax liability for the year. If you think that your income may exceed the amounts above, you may wish to consider waiving your right to the premium reduction. For more information, consult your tax preparer or visit the IRS webpage on ARRA at [www.irs.gov](http://www.irs.gov).

For general information regarding your plan’s COBRA coverage you can contact [*enter name of party responsible for COBRA administration for the Plan, with telephone number and address*].

For specific information related to your plan’s administration of the ARRA Premium Reduction or to notify the plan of your ineligibility to continue paying reduced premiums, contact [*enter name of party responsible for ARRA Premium Reduction administration for the Plan, with telephone number and address*].

If you are denied treatment as an “Assistance Eligible Individual” you may have the right to have the denial reviewed. For more information regarding reviews or for general information about the ARRA Premium Reduction go to:

[www.dol.gov/COBRA](http://www.dol.gov/COBRA) or call 1-866-444-EBSA (3272)

\* Generally, this does not include coverage for only dental, vision, counseling, or referral services; coverage under a health flexible spending arrangement; or treatment that is furnished in an on-site medical facility maintained by the employer.