

Manley Services Employer Bulletin: COBRA Provisions of the American Recovery & Reinvestment Act of 2009

Issued March 3, 2009

The American Recovery and Reinvestment Act of 2009 (ARRA) is the financial stimulus law signed by President Barack Obama on February 17, 2009. This law includes significant changes to the COBRA continuation coverage rules. This notice is intended to provide an overview of the COBRA changes resulting from this law, and explain how Manley Services will implement these provisions for your COBRA plan.

Overview of the Law's COBRA Changes

COBRA Premium Subsidy

The law includes a COBRA premium subsidy that will reduce an eligible individual's COBRA premium cost for up to nine months. During the nine-month subsidy period, eligible individuals will be required to pay only 35 percent of the COBRA premium. The employer will subsidize the remaining 65 percent of the premium, and the federal government will reimburse the employer for that amount by allowing the employer to take a payroll tax credit.

Eligibility for the Premium Subsidy

An "assistance eligible individual" (AEI) is the employee or a member of his/her family who:

- is eligible for COBRA continuation coverage at any time between September 1, 2008 and December 31, 2009;
- elects COBRA coverage; and
- is eligible for COBRA as a result of the employee's involuntary termination between September 1, 2008 and December 31, 2009.

Duration of the Premium Subsidy

Under ARRA, the COBRA premium subsidy is available for up to nine months. The subsidy does not extend the length of the actual COBRA coverage.

Special COBRA Election Period

The law includes a special election period for individuals who were involuntarily terminated from September 1, 2008 through February 16, 2009, and who:

- did not elect COBRA when it was first offered; OR
- elected COBRA but have stopped making payments.

These individuals will have 60 days from receiving the COBRA Notice (see below) to elect COBRA. The coverage during this special COBRA election period will be effective retroactive to March 1, 2009.

Notification Process

The U.S. Department of Labor is developing a model notice to individuals about the federal subsidy for COBRA premium and the special election period. This COBRA Notice must then be issued to all individuals who had a qualifying between September 1, 2008 and the present. Only individuals whose employment was involuntarily terminated will be eligible for the subsidy, but all individuals must be given the opportunity and the means to appeal if they disagree.

Example

Victor's employment terminated involuntarily on December 3, 2008 and he did not elect COBRA coverage at that time.

- His former employer must now provide him with notice of his right to elect coverage under the new COBRA premium subsidy program.
- That notice is provided on March 20, 2009, and Victor then has 60 days to make a COBRA election.
- As long as Victor elects COBRA within that 60-day window (by May 19) and makes the appropriate premium payment:
 - His COBRA coverage will be effective on March 1, 2009.
 - He will be eligible for the premium subsidy for nine months, from March through November 2009.
 - His COBRA eligibility will end on June 3, 2010 (18 months after his involuntary termination).

What Manley Services is Doing

Notification to COBRA-eligible Individuals

While we are all eager to issue information on the premium subsidy quickly, we believe that accuracy is even more important.

On the advice of our attorneys and our in-house counsel, Manley will use the U.S. Department of Labor's model notice for the purpose of notifying former employees about the subsidy. The notice is currently being drafted by the Department of Labor and is required to be available by March 19. Employers then have until April 18 to send out the notice, and we are preparing to send the notice as soon as it becomes available.

Manley Services will send the notice to all individuals who became eligible for COBRA due to any qualifying event occurring on or after September 1, 2008, or who become eligible going forward. This means that barring any further guidance or relief, we must send the notice to everyone eligible for COBRA, even if they are not eligible for the premium subsidy.

Verification of Eligibility for the Premium Subsidy

We will work with you to ensure that only eligible individuals receive the premium subsidy. To do that, we will ask you for a list of employees who were involuntarily terminated, and we will cross-reference that with our information.

Documentation for Payroll Tax Credit

You will be eligible for reimbursement of the 65 percent premium subsidy through a payroll tax credit. Manley Services will provide you with a Form 941 each quarter. That form will provide all the documentation you need to claim the payroll tax credit.

Credit for March Premium

If a current COBRA participant becomes eligible for the premium subsidy but has already paid the March premium, we will credit the 65 percent overpayment toward April and May premium.

New COBRA Notification Form

We have updated our COBRA Notification form to capture information on whether employment was terminated involuntarily. Please use the attached form for all future COBRA qualifying events.

Updated Information as it Becomes Available

We expect additional guidance on this law to become available in the coming weeks. As that happens, we will keep you informed through additional Employer Bulletins. In the meantime, if you have any questions or concerns, please feel free to contact our COBRA Customer Service Team by e-mail at COBRA@ManleyServ.com or by phone at (800) 422-7038.

How You Can Help

Please provide us with a list of involuntarily terminated employees.

We will need a list of your employees who were involuntarily terminated on or after September 1, 2008. We will then cross reference our records with your list to ensure that the law's eligibility criteria are applied accurately. *Please e-mail your list of terminated employees to COBRA@manleyserv.com by Monday, March 16.*

Please use only our new COBRA Notification form.

Attached is a COBRA Notification form that will be used for all future COBRA qualifying events. This form has an additional box indicating "Involuntary Terminations." Please discard your current COBRA Notification forms and only use this one from this point forward.

This FAQ document is intended to provide our customers with general information regarding the American Recovery and Reinvestment Act. This document does not constitute legal or compliance advice, and you should consult your own legal counsel for specific guidance.

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