COBRA PREMIUM SUBSIDY

Title:	COBRA Provisions in the American Recovery and Reinvestment Act as amended by Section 1010 of the Department of Defense Appropriations Act for 2010
Purpose:	The Act provides for a premium subsidy of 65% of the COBRA premium for certain eligible employees who are involuntarily terminated from employment between September 1, 2008 and February 28, 1010. The subsidy is provided for a maximum of 15 months.
Effective Date:	Upon enactment (December 19, 2009)
Scope:	Employers with 20 or more employees that offer health insurance coverage are subject to the new COBRA requirements. Self-funded employers and insurers (of fully insured group plans) are required to pay the COBRA premiums subsidy and will be reimbursed by the federal government as an offset to payroll taxes.
Benefit Requirements:	To be entitled for the subsidy, the employee must: 1. Be involuntarily terminated from employment between September 1, 2008 and February 28, 2010; 2. Be eligible for COBRA as a result of such termination; *and* 3. Have a modified adjusted gross income below $250,000 (for joint filers) or $125,000 (for all other filers). The maximum period of eligibility for the subsidy is 15 months. The person "to whom premiums are payable under COBRA" is required to collect the employees 35% of premium and will receive the remaining 65% of premium from the federal government as an offset to payroll taxes. This may either be the employer (if COBRA coverage or the employer is self-funded) or the insurer (if State continuation coverage). Employers and insurers can treat all COBRA beneficiaries eligible due to involuntary termination during the applicable period as eligible for the subsidy; however, and employee can notify the employer/insurer that he/she is not eligible for the subsidy. The Act also modifies COBRA to allow (but not require) employers to permit and individual who is eligible for the subsidy to change his/her health plan benefit option provided that the new option must have the same or lower premiums and must be available to active employees.
Retroactivity	Individuals who exhausted the COBRA subsidy prior to December 19, 2009 are entitled to the subsidy retroactively so long as they continue to be eligible for COBRA. If the employee continued to pay 100% of premiums after exhausting the subsidy, by February 17, 1010, the employer (if COBRA coverage or the employer is self-funded) or the insurer (if State continuation coverage) must reimburse 65% of the premium or credit that amount toward future premiums. If the employee dropped coverage after exhausting the subsidy, he/she may retroactively pay 35% of the premium to re-enroll so long as he/she does so by February 17, 2010 (or, for COBRA coverage, within 30 days of receiving notice from the employer if later).
Notice Requirements:	Employers must provide modified or supplemental notices within 60 days of enactment to COBRA eligible individuals who become entitled to COBRA between September 1, 2008 and February 28, 2010. The notice must describe the premium subsidy and, if applicable, the right to change coverage options in addition to certain other information. Failure to provide such notice may result in penalties of up to $110/day under ERISA. (Notice requirements do not apply to RI Extended Medical Benefits.)
Effect on Rhode Island Law:	RI Extended Medical Benefits (under RIGL 27-19.1-1) qualifies as COBRA continuation coverage eligible for the subsidy.

This document provides an overview of the requirements of the COBRA Provisions of the American Recovery and Reinvestment Act, as amended. It is intended for informational purposes only and does not constitute legal or compliance advice. Group health plans should consult their counsel for specific guidance.

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