

FAQs for Qualified Beneficiaries – COBRA Subsidy American Recovery and Reinvestment Act of 2009

1. What does the stimulus package provide to me?

The Economic Stimulus package (now known as The American Recovery and Reinvestment Act of 2009, or ARRA) provides for a COBRA premium subsidy that applies to individuals who experienced an involuntary loss of employment (for reasons other than gross misconduct) between September 1, 2008 and December 31, 2009. Under the subsidy, the qualified beneficiary pays 35% of the applicable COBRA premium. The remaining 65% is subsidized by the employer. The subsidy is available for any health coverage (including medical, dental, vision, EAP, health reimbursement arrangements). Health FSA coverage offered through a cafeteria plan is not eligible for the subsidy.

The employer is reimbursed by the government by claiming the amount of subsidy as a credit against its payroll taxes. The subsidy would expire after the lesser of nine months or the end of the COBRA coverage period, leaving the remaining months unsubsidized.

Entitlement for the subsidy ends if you become eligible for (though not necessarily covered by) other group health coverage or for benefits under Medicare. You may lose the subsidy if you become eligible for other coverage yet still be entitled to continue coverage under COBRA if you do not elect the other coverage. If you are eligible for the group health plan yet remain within a waiting period for the coverage, you remain eligible for the subsidy.

2. Is the 55/10 option part of the stimulus?

No. The House version of the bill would have expanded COBRA for those individuals who are at least 55 years old or who have at least 10 years of service. This provision was eliminated by the conference committee, and is not in the final bill.

3. Who determines if I qualify?

Discovery will take direction from your former employer as to which qualified beneficiaries qualify for the COBRA subsidy. The COBRA premium subsidy only applies to involuntary losses of employment between September 1, 2008 and December 31, 2009. Involuntary losses of employment do not include individuals who experienced an involuntary reduction in hours (i.e. moving from full-time to part-time employment).

4. When will I know how this affects me?

If you qualify and depending on which of the following categories you are part of, you may receive one of the following notices:

- A special election notice sent to those that experienced a qualifying event September 1, 2008 or later and did not elect COBRA.
- A special notice to existing COBRA participants informing them of the new premium subsidy and the amount of the premiums going forward.
- A Subsidy Waiver Form allowing high income enrollees to opt out of the subsidy.

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Discovery will also send notices that:

- Inform you when approval is given for your enrollment in the subsidy and COBRA election under the special election period, if applicable. New payment coupons will be provided with the notice.
- Inform you when the subsidy no longer applies and the premium goes back to its original amount.
- Inform you if you applied for coverage and are not eligible for the subsidy.
- Inform you if you applied to enroll in COBRA under the special election period and were determined not eligible to enroll.

5. I quit my job, will I still be offered a subsidy?

No. The COBRA premium subsidy applies to involuntary losses of employment only.

6. I was on COBRA prior to September 1, 2008, will I be allowed a partial subsidy?

No. The provision is very specific that the involuntary termination must take place between September 1, 2008 and December 31, 2009.

7. Is there anything I can do to expedite my participation?

The Department of Labor is required to release model notices for the new COBRA notices within the next 30 days. Discovery is working with its software vendor on the necessary programming changes while we are waiting for the model notice language. Notices must be mailed no later than April 18, 2009.

8. When does it go into effect?

The COBRA revisions are effective March 1, 2009. Notices must be mailed to qualified beneficiaries by April 18, 2009. You will have a 60-day election window to make your election.

9. I am on COBRA now, should I still pay my premiums?

Continue to pay your full COBRA premiums as you normally do to ensure no lapse in coverage. Discovery Benefits will send you a notice that you are qualified to receive the subsidy and will include information about the next steps. If you are approved for the subsidy, any premiums paid that create a positive balance will be applied toward future months of coverage up to six months out. Anything paid beyond the six month balance (or to the end of the COBRA period) will be refunded to you via check at the end of the coverage period.

10. How will I be reimbursed for what I have already paid?

Once the subsidy is approved and if the premiums that have already been paid result in a positive balance of premiums, those premiums will be applied toward future months of coverage (up to six months). Anything paid beyond the six month balance (or to the end of the COBRA period) will be refunded to the participant at the end of the coverage period. Discovery will remit via check within sixty days any excess premiums in its account that are paid past the end of the COBRA coverage period or any balances that exceed premiums due with the subsidy applied beyond six months of coverage.

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11. I did not elect COBRA earlier and now I want to because of the subsidy. When will my coverage begin?

If you are eligible for the subsidy and did not originally elect COBRA, you have a new election period that begins March 1, 2009 and ends 60 days after the date of the notice provided to you by Discovery Benefits. COBRA coverage will only reach back to the period of coverage beginning on or after March 1, 2009. Your maximum COBRA coverage period will be measured from the date of your original qualifying event (i.e., the date of the involuntary termination of employment).

There will be a gap in coverage from the date you originally lost coverage due to your qualifying event up to March 1, 2009. The gap in coverage is not considered a gap in coverage for purposes of HIPAA's pre-existing condition rules. HIPAA certificates of creditable coverage will be updated with new language to reflect this.

12. What if I already work for a new company but I am on COBRA?

You may be eligible to receive the subsidy if you are not yet eligible for your new employer's group health plan, your spouse's employer's group health plan or Medicare. Under ARRA, if you are eligible for another group health plan, the subsidy will end even if you are not enrolled in the plan. If you are eligible for the group health plan and are still within your waiting period under the plan, you may continue to receive the subsidy.

13. What are my reporting requirements?

You must provide Discovery with a timely written notice when you become eligible for (not just covered by) Medicare or another group health plan, including your spouse's health plan. Failure to provide the notice will result in your paying a penalty of 110% of the subsidy received after becoming eligible for the other coverage.

14. Is there an income limit on who is eligible for the subsidy?

The subsidy starts to phase out for individuals with incomes above \$125,000 for a single and \$250,000 for married couples and is not available for single individuals with incomes above \$145,000 and married couples with incomes above \$290,000. The income threshold is the modified adjusted gross income for an individual income tax return for the taxable year in which the subsidy is received (either 2009 or 2010) where the eligible individual is the taxpayer, the taxpayer's spouse or a dependent of the taxpayer.

Even if your income is high enough that the recapture of the subsidy would apply, you are still eligible to receive the subsidy unless you notify us that you have elected the permanent waiver of the subsidy.

15. How do I make a permanent election to waive the right to the subsidy?

If you want to make a permanent election to waive the right to the subsidy, you can do so by providing a signed and dated permanent waiver notification to Discovery Benefits. There is no separate additional notification to any government agency. If you make the permanent

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election to waive the right to the subsidy, you may not later reverse the election and you may not receive the subsidy for any future period of COBRA continuation coverage in 2009 or 2010, regardless of modified adjusted gross income in those years.

16. What if I didn't elect COBRA because I couldn't afford it but with the subsidy I could?

You will be given the option to re-enroll, but your first date of coverage will be March 1, 2009. Claims incurred prior to March 1, 2009 will not be covered under the revised coverage period. If an election is made solely by virtue of the special election period (and not within your original COBRA election period), COBRA coverage will only reach back to the period of coverage beginning on or after March 1, 2009 and the maximum COBRA period will be measured from the date of the original qualifying event (i.e., the date of the involuntary termination of employment).

There will be a gap in coverage from the date you originally lost coverage due to your qualifying event up to March 1, 2009. The gap in coverage is not considered a gap in coverage for purposes of HIPAA's pre-existing condition rules. HIPAA certificates of creditable coverage will be updated with new language to reflect this.

17. Does a failure to timely pay the required premium for COBRA continuation coverage end the subsidy?

Yes. Failure to timely pay the required premium for COBRA continuation coverage ends the period of COBRA coverage, at which time you will no longer qualify for the subsidy. Payment is considered timely if it is made by the end of any applicable grace period for making payment.

18. What if I am turned down for the subsidy but I think I am eligible?

If you are turned down for the subsidy and you believe you should be eligible, you can appeal to the Department of Labor (DOL) or to the Department of Health and Human Services (HHS).

The DOL and HHS must provide an expedited review and rule on your appeal within 15 business days of receiving your application for review. If the appeal is denied, you still have the option to sue under ERISA 502(a)(3), however ARRA provides that the reviewing court is required to grant deference to DOL's or HHS's determination.

At this time, the form and manner of appeal has not yet been developed by the DOL or HHS. More information will be provided to you when the appeal process is formalized by the DOL and HHS.

19. Who should I call if I have more questions?

Call Discovery Benefits COBRA Continuant Services at 866-451-3399, option 1, 2. We will be glad to help you with your questions.