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AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

COBRA PREMIUM ASSISTANCE PROVISION

The recently passed American Recovery and Reinvestment Act of 2009 has a provision that impacts COBRA premiums and is designed to provide additional assistance to those who are currently on the plan, were eligible as of September 1, 2008 or will be eligible in 2009.

The most important aspect of the provision is that it offers a temporary 65% reduction in COBRA premiums for eligible individuals. Historically, individuals have been obligated to pay up to the full cost of the coverage plus a 2% administrative fee. Under the temporary assistance provision, the premiums for individuals will be reduced to 35% of the total cost.

Impacts on Employers

COBRA Premium Payment and Credit

The premium assistance provision states that the employer of the eligible individual must pay 65% of the COBRA premium starting March 1, 2009. The employer will receive a credit for the amount of the COBRA premium paid against payroll taxes. If the subsidy is greater than the tax liability, the excess amount is either paid to the employer or applied against future payroll taxes.

To apply for the credit, the employer must submit the COBRA premium assistance amount on the revised Form 941 (Employers Quarterly Federal Income Tax Return). The following link will provide you access to the revised 941 form <http://www.irs.gov/pub/irs-pdf/f941.pdf> . If you use a payroll service you will need to notify them of these payments before the end of each quarter.

No additional documentation needs to be submitted with the revised 941. However, the employer is required to maintain the following documentation to support the tax credit claim:

- Receipt – Records should include employee information, dates and amounts paid by the employer, and the amount of the eligible individuals' share of the premium
- A copy of the invoice or other supporting statement from the insurance carrier along with proof of timely payment
- Documentation of the termination – employee name, position, date of hire, date and reason of termination
- Proof of the individuals election to enroll in COBRA coverage or to opt-out of the coverage

For additional reporting and documentation information click on the following link:

<http://www.irs.gov/newsroom/article/0,,id=205376,00.html>

Premium reduction ends when the individual becomes eligible for group coverage (or Medicare), after 9 months of the reduction or when the maximum period of COBRA eligibility ends, whichever occurs first.

Note: If the individual paid premiums for March and April, the employer may either refund the amount of premiums paid in excess of 35% or credit the amount against future premiums.

Notification to Eligible Employees

Plan administrators/Employers must communicate the availability of the subsidy to eligible COBRA beneficiaries by April 18, 2009. To complete the notification process, please click on the following link <http://www.dol.gov/ebsa/COBRAGeneralnoticefullversion.doc>. This document should be provided to eligible individuals as it outlines the changes as well as provides an opportunity to elect COBRA coverage under the revised terms.

Impacts on Employees

Eligibility Requirements

The COBRA premium reduction provision is available to assistance-eligible individuals, who include the employee (and members of his/her family) whose employment is/was involuntarily terminated between September 1, 2008 and December 31, 2009 and is eligible for and elects COBRA coverage.

Eligible applicants who lost their jobs between September 1, 2008 and February 17, 2009, but either didn't apply for COBRA coverage or ceased coverage due its high cost have a **new 60-day period within which coverage can be elected** in order to obtain the premium assistance.

Individuals that are eligible for other group health coverage (such as a spouse's plan) or Medicare are not eligible for premium reduction.

Premium Payments

- The subsidy is not taxable as income to the recipient, but it is phased out for individuals with adjusted gross incomes between \$125,000 - \$145,000 (\$250,000 to \$290,000 if married filing jointly).
- If a beneficiary paid premiums for March and April, the employer may either refund the amount of premiums paid in excess of 35% or credit the amount against future premiums.
- The new federal subsidy is payable for a maximum of 9-months. However when the eligible individual becomes eligible for other group health insurance (including a Spouse's plan) or Medicare, the premium assistance is immediately terminated.

Helpful Links

www.dol.gov/COBRA.html

www.irs.gov/newsroom

<http://recovery.vermont.gov>