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Illinois Insurance Facts

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Federal Stimulus – Group Coverage Continuation Subsidy

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On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act, commonly called the Stimulus Plan. The new law provides a subsidy that may reduce by 65% the cost of COBRA and other state group continuation coverage for workers who lose their jobs.

What Are Group Coverage Continuation Laws?

Group coverage continuation laws require employers to offer employees who lose group coverage the opportunity to continue their employer-based health insurance. COBRA is the federal law that requires employers with 20 or more employees to provide group continuation coverage. State law requires employers of any size to provide group continuation coverage.

NOTE: This fact sheet focuses on the subsidies and changes to federal and state continuation coverage provided under the Stimulus Plan. For more detailed information about COBRA and state continuation laws, please refer to the Division of Insurance consumer fact sheets titled "[Health Insurance Continuation Rights – COBRA](#)" and "[Health Insurance Continuation Rights – Illinois Law](#)."

When an Employee Loses Group Coverage and Elects Continuation, Who Pays the Premium?

Normally it is the employee who lost group coverage, not the employer, who must pay the entire health insurance premium.

Who is Eligible for Subsidized Coverage Under the New Law?

Individuals who lose group health coverage because of an involuntarily termination ("former employees") between September 1, 2008 and December 31, 2009 are eligible for a 65% federal subsidy of their COBRA or state continuation coverage premiums for up to 9 months. This subsidy is not available to workers whose modified adjusted gross income in the year they receive the subsidy exceeds \$145,000 for individuals and \$290,000 for couples filing joint tax returns. We encourage individuals and couples to confirm eligibility with a tax specialist.

NOTE: The subsidy will be phased out for individuals whose modified adjusted gross income is between \$125,000 and \$145,000 and for couples between \$250,000 and \$290,000. If an individual takes advantage of the subsidy and in the same year exceeds the income limit, he or she must repay the subsidy.

How Do Individuals Sign Up for the Subsidy?

Employers are required to send forms to former employees so that former employees can elect to continue their group coverage and receive the subsidy. Former employees will have 60 days after receiving the forms to enroll. Further details about enrollment will be provided by the federal

Department of Labor. For the most up-to-date information, contact the Department of Labor at 1-866-444-3272 or visit the agency's website (<http://www.dol.gov/ebsa/COBRA.html>).

Does the New Law, Including the Subsidy, Apply to Group Continuation Coverage other than COBRA?

The new law, including the subsidy, applies to both federal COBRA group continuation coverage and state group continuation coverage.

NOTE: The new law applies only to the state's continuation law, not to the state's spousal continuation law or dependent continuation law. For more information about these laws, please refer to the Division of Insurance consumer fact sheet titled "[Health Insurance Continuation Rights – Illinois Law.](#)"

Does the New Law, Including the Subsidy, Apply to Small Health Plans (<20 employees)?

The new law, including the subsidy, applies to group health plans of all sizes.

When Will Eligible Individuals First Receive the Subsidy?

The subsidy will be applied to premiums for the first period of coverage beginning on or after February 17, 2009. For most individuals, the first period of subsidy-eligible coverage will begin March 1, 2009. The subsidy is prospective (*i.e.*, the new law does not subsidize group continuation coverage prior to the first period of coverage on or after February 17, 2009).

NOTE: Individuals who have already paid premiums for a period of coverage to which the subsidy applies are entitled to a refund or credit from their employer or insurer for the subsidy amount.

How will the Subsidy be Applied to Group Continuation Coverage?

Former employees who qualify for the subsidy will only be required to pay 35% of the group coverage continuation premium. The remaining 65% will initially be paid by the former employer, in the case of self-insured plans, or by the insurer providing coverage under the group health plan. The former employer or the insurer will then be reimbursed by the federal government through a reduction in payroll taxes.

Will Eligible Individuals Who Previously Terminated or Declined to Elect Group Continuation Coverage Have Another Opportunity to Elect Group Continuation Coverage and Receive the Subsidy?

If your employment was involuntarily terminated on or after September 1, 2008 and you initially declined to elect group continuation coverage, or elected group continuation coverage and later stopped paying premiums, your employer must notify you of an additional opportunity to elect group continuation coverage and receive the subsidy. You will have 60 days to enroll after receiving notification from your employer. This opportunity to enroll is referred to as the "extended election period."

Coverage for eligible individuals who enroll during the extended election period will:

- Begin with the first period of coverage on or after February 17, 2009.
- End on the date coverage would have ended if the eligible individual had elected group continuation coverage when he or she first became eligible. For example, if an employee was involuntarily terminated September 1, 2008, did not elect COBRA continuation coverage

after the layoff, but now chooses to elect COBRA, his or her COBRA coverage ends on March 1, 2010 – 18 months from when he or she first became eligible for COBRA, not 18 months from an election during the extended election period.

When providing coverage to former employees who elect group continuation coverage during the extended election period, employers may not apply pre-existing condition coverage limitations based on a gap in coverage between the layoff and commencement of the group continuation coverage.

What if an Employer Refuses to Provide Group Continuation Coverage or Refuses to Provide the Subsidy?

The new law requires the federal Department of Labor to provide an expedited review of any employer's refusal to allow a worker to elect group continuation coverage and receive the subsidy. Once the denied individual submits an application for review, the Department of Labor shall make an eligibility determination within 15 business days. If you have additional questions about these reviews, contact the Department of Labor at 1-866-444-3272 or visit the agency's website (<http://www.dol.gov/ebsa/COBRA.html>).

Does the New Law Extend the Length of Available Group Continuation Coverage?

The new law does not change the length of time that group continuation coverage must be provided to eligible individuals: COBRA typically provides for up to 18 months of coverage, while state continuation law provides for up to 9 months of coverage.

Will Individuals be Eligible for the Subsidy for as Long as They Are Eligible for Group Continuation Coverage?

The subsidy will not necessarily last as long as your group continuation coverage. For example, former employees typically qualify for up to 18 months of COBRA coverage. The subsidy lasts up to 9 months. Therefore, an eligible individual who chooses to pay for 18 months of COBRA coverage after March 1, 2009 would still have to pay 9 months of unsubsidized premiums.

Can an Individual Lose Eligibility for the Group Continuation Subsidy?

You can lose eligibility for the group continuation subsidy in two ways. First, as mentioned above, the subsidy lasts no longer than 9 months. Second, you become ineligible for the subsidy when you become eligible for new group health coverage or Medicare.

- Beneficiaries must notify their former employer when they become eligible for new group health coverage.
- Beneficiaries who willfully neglect to notify their former employer of their eligibility for a new group health plan must repay 110% of the subsidy to the federal government. No such penalty shall be imposed if the beneficiary demonstrates "reasonable cause" for the failure.

NOTE: Rules governing eligibility for subsidized COBRA differ from rules governing eligibility for unsubsidized COBRA. Eligibility for unsubsidized COBRA ends only when a beneficiary enrolls in new group coverage or Medicare. However, simply being eligible for new group health coverage disqualifies an individual from receiving the COBRA subsidy.

Does the Subsidy Affect Eligibility for other Income-Based Government Programs?

The subsidy will not be counted as income in determining eligibility for, or assistance provided under, any other federal or state program.

Does the New Law Affect Individuals Who Qualify for COBRA Due to Eligibility for Trade Adjustment Assistance or Eligibility for Benefits from the Pension Benefit Guaranty Corporation?

The new law provides significant extensions of COBRA coverage periods for individuals who receive benefits directly from the Pension Benefit Guaranty Corporation or are eligible for Trade Adjustment Assistance. If you have additional questions about these extensions, contact the federal Department of Labor at 1-866-444-3272 or visit the agency's website (<http://www.dol.gov/ebsa/COBRA.html>).

The Division of Insurance will update this fact sheet as appropriate federal agencies provide additional guidance.

For More Information

Call the Division of Insurance Consumer Services Section at (866) 445-5364 or our Office of Consumer Health Insurance at (877) 527-9431 or visit our website at <http://www.idfpr.com/doi/default2.asp>