



## **New COBRA Regulations**

On February 17, 2009, President Barack Obama signed into law The American Recovery and Reinvestment Act (the "Recovery Act") to stimulate the economy and provide relief to citizens struggling with layoffs and other financial hardships. Part of this Act focused on the expense of health insurance coverage through COBRA or State Continuation. Through the "Recovery Act," the government is now offering a 65% COBRA or State Continuation premium subsidy to workers who were/are involuntarily terminated between September 1, 2008 and December 31, 2009.

The law was designed to help make health insurance more affordable for individuals and families dealing with job loss and transition. Many WPS customers are wondering what this new provision means for their business. The list of "Frequently Asked Questions" below is meant to help you gain better understanding.

## **Frequently Asked Questions**

### *Who is eligible for the subsidy?*

An Assistance Eligible Individual (AEI) is an employee who is/was involuntarily terminated and eligible for either COBRA between September 1, 2008 and December 31, 2009. Involuntary termination occurs when an employee is terminated by the employer. This includes layoffs and even performance related terminations except in cases involving gross misconduct. Employees who resign, quit, or voluntarily reduce their hours may be eligible for COBRA, but are not eligible for the premium subsidy. Income restrictions also apply.

AEIs are categorized as either current or potential. Current AEIs are individuals who were involuntarily terminated on or after September 1, 2008 and who are currently covered under COBRA and may be eligible for the subsidy. Potential AEIs are individuals who were involuntarily terminated on or after September 1, 2008 but did not elect COBRA coverage as of February 17, 2009, and may be eligible for the subsidy.

### *Who pays for the subsidy?*

Ultimately, the federal government pays for the subsidy. An AEI is only required to pay 35% of his or her COBRA premium for a period of no more than nine months. The person receiving the subsidy pays the nonsubsidized portion of the COBRA premium (as they normally would) to their former employer. The employer is then responsible for payment of the remaining 65%. The amount the employer pays can be automatically offset through payroll taxes. If the subsidy amount paid exceeds the payroll taxes owed, the Treasury Department will reimburse the employer for the excess by check.

### *What is the Extended Election Period?*

Individuals who would have qualified for the subsidy, but chose not to elect COBRA as of February 17, 2009 have a special 60-day election period. Each of these AEIs must receive a notification of eligibility. Their special election period will end 60 days after receipt of that notice.

*How is the subsidy terminated?*

The subsidy will automatically terminate:

- Nine months after it began;
- When the individual's COBRA eligibility ends;
- If the individual becomes eligible for another group health plan (it is the employee's responsibility to notify his or her employer of eligibility status); or
- If the employee becomes eligible for Medicare.

In order to maintain COBRA coverage once the subsidy terminates, an eligible individual must pay the full cost of that coverage for the remainder of the COBRA period.

*What is my responsibility as a business owner/group leader?*

Your level of responsibility depends on the size of your group.

- Groups of more than 20: You are responsible for notifying all current and potential AEIs of the subsidy and should begin by identifying them. The DOL has issued model notifications that can be found at [www.dol.gov/ebsa/COBRAModelNotice.html](http://www.dol.gov/ebsa/COBRAModelNotice.html). You may use this model or draft your own communication, but all potential and current AEIs must be notified no later than April 18, 2009. The AEI will then, in turn, have 60 days from receipt of that notice to elect coverage. The model will be posted on the DOL's Web site. You must notify WPS of any eligible employees. **WPS does not determine eligibility.**

The DOL will be releasing additional guidance in the coming weeks. We will communicate this guidance to you as it becomes available to us.

*Where can I find more information?*

Visit one of these Web sites for additional details:

[www.dol.gov/ebsa](http://www.dol.gov/ebsa)

[www.irs.gov/newsroom](http://www.irs.gov/newsroom)