



>> THE AMERICAN RECOVERY AND REINVESTMENT
ACT OF 2009 - ADMINISTRATION OF TITLE III:
PREMIUM ASSISTANCE FOR COBRA BENEFITS



By now you most likely have heard or have received information concerning the changes to COBRA as required under The American Recovery and Reinvestment Act which was signed into law on February 17, 2009. This legislation contains provisions which will require changes to the COBRA administrative process. These provisions were made in an effort to make COBRA continuation coverage available and affordable.

»» A SUMMARY OF THE KEY LEGAL PROVISIONS CONTAINED WITHIN TITLE III - PREMIUM ASSISTANCE FOR COBRA BENEFITS

- The Federal government will make a premium subsidy available in the amount of 65% of total COBRA premiums.
 - There is a phase out for taxpayers with a modified adjusted gross income of \$125,000 (\$250,000 for joint filers). However, the burden of this limitation resides with the taxpayer and not the employer to identify.
 - Benefits covered by the subsidy include all benefits subject to COBRA with the exception of Health Care Flexible Spending Accounts.
- All employees who were involuntarily terminated and eligible for COBRA will qualify for the premium subsidy providing their qualifying event date occurred September 1, 2008, through December 31, 2009.
- There is a 60 day special election period for those eligible for the premium subsidy and who previously declined COBRA coverage or who elected COBRA coverage but are no longer enrolled. This special election period notice must be provided to those eligible for the premium subsidy by April 18, 2009.
- At the employer's option, premium subsidy eligible individuals may be allowed to change to another health plan option provided that plan is offered to active employees and the premium is the same or lower (due to the administrative complexities, Trion is unable to support this option).
- The subsidy will be available for a maximum period of nine months beginning the earlier of March 1, 2009, or the effective date of coverage for new COBRA beneficiaries.
- For COBRA beneficiaries eligible for the subsidy and who have paid the full COBRA premium due for the months of March and April, these overpayments will be credited toward future months or refunded.
- Employers will initially fund the premium subsidy and then be reimbursed directly by a credit on their employment tax deposits. This process will be established through policy updates by the Internal Revenue Service.

- Reports will be required to substantiate the premium subsidy reimbursement request. The report requirement will most likely include a certification of the eligibility of each employee, and a listing of each covered employee with their name and TIN, the amount of the premium subsidy and their coverage level.
- The Premium Subsidy terminates on the earlier of the date the employee is eligible for coverage under another group health plan or Medicare, the date following the termination of the COBRA coverage, or after nine months of receiving a premium subsidy.

While the actual legislation contains many nuances to the above guidelines, the above does represent a framework in which to build an understanding and implementation of the Premium Assistance for COBRA Benefits Act.

The impact of this legislation on COBRA administration will require significant processing changes and action. While there are still components of the act that require further clarification and components of the act which may change based on continued efforts to implement, Trion has developed an initial plan to comply with the new regulations.

»» THE BASIC COMPONENTS TO ADMINISTRATIVELY COMPLY WITH TITLE III - PREMIUM ASSISTANCE FOR COBRA BENEFITS

- Identify all the involuntary terminations that have occurred with an effective date of September 1, 2008, and after.
- Establish a method for identifying future involuntary terminations so they can be processed under the regulations.
- Create new qualifying event notifications based on the new notification requirements. The DOL has been directed to provide a new model notification by March 19, 2009.
- Recreate all benefit rate tables to identify the 65% COBRA premium subsidy.
- Issue payment coupons which clearly identify the subsidy and the employee obligation to active and future COBRA beneficiaries who qualify for the premium subsidy.
- Create additional reporting which enables employers to claim reimbursement for those who qualify for the premium subsidy and have paid the employee portion of the premium in a given premium month.

While the above administrative components appear to be straight forward and easy changes, under the high level nature of these bullets is a very complicated adjustment to core processing capabilities. These changes will require extensive preparation in order to achieve successful implementation of the regulations within the required period of time.



Although the changes to administration are complicated, please know that we are committing the resources and expertise to translate the new regulations into an administrative process that minimizes the impact to our clients and ensures total compliance.

»» THE STEPS TRION HAS SET IN MOTION IN ORDER TO COMPLY WITH TITLE III - PREMIUM ASSISTANCE FOR COBRA BENEFITS - EVEN AS MORE GUIDANCE CONTINUES TO BE RELEASED

1. Prepare to identify all employees involuntarily terminated with a qualifying event date beginning September 1, 2008 up to a current date. Please note that involuntary termination is currently defined as those employees who are terminated by employer action other than for gross misconduct. If an individual is terminated for gross misconduct they are not eligible for COBRA coverage.

Trion will provide our clients, who have not already communicated the termination reason, with online access to all of their employees who had a qualifying event date on or after September 1, 2008. The list will include all employees from September 1, 2008 to the date of the access. This access date will be tied to the availability of the model notice which is scheduled to be released by March 19, 2009.

2. Employers will need to establish a method for identifying involuntary terminations on a go forward basis through at least December 31, 2009. Many employers have not had the necessity to track reason for termination and their internal systems may not currently accommodate the recording of that information.

Trion is in the process of modifying our systems and processes to capture termination reason. Since our clients method of transmitting data to Trion vary greatly, we will work on solutions that works best on an individual client basis.

3. The Department of Labor is required to draft a new COBRA model notice that contains the information necessary to comply with the new notification requirements. Some of the key inclusions are:
 - A description of the extended election period
 - A description of the obligation of the qualified beneficiary's to notify the plan of eligibility for subsequent coverage
 - A prominent description of the qualified beneficiary's right to reduced premium
 - A prominent description of any conditions on entitlement of the reduced premium
 - Must include forms necessary to establish eligibility



While it is possible to create and issue qualifying event notices based on the initial legislation, Trion believes the best approach for our clients is to wait for the model notice. This will ensure that all necessary information is included in the notice in an approved format.

4. Active qualified beneficiary's need to be issued new payment coupons once they have been identified as premium subsidy eligible. Coupons must clearly indicate the new employee premium obligation.

Trion is working on solutions to accomplish the billing requirements contained in the Premium Assistance for COBRA Benefits. New payment coupons will be issued no later than April 18, 2009.

5. In order for employers to be reimbursed for premium subsidies, Monthly COBRA activity reporting must be enhanced to capture and report on the premium subsidy activity. The employer will be required to provide the Internal Revenue Service with some level of detail with filings of their 941 forms.

Trion is preparing enhancements to the reporting capabilities of its COBRA platform. We expect to have the reporting requirements clarified and programmed in advance of any premium subsidy payments.

>> CONCLUSION

Trion's goal, as always, is to remove the administrative burden. Although these regulations present a challenge due to their complexity and time restrictions, we are fully confident that we will deliver our stated goal and absorb the burden well within the timelines.