

NH Employers are Significantly Impacted by Economic Stimulus Plan

On February 17, 2009 President Obama signed the *American Recovery and Reinvestment Act of 2009* (ARRA) into law. Employers are impacted by this legislation in many ways, one of which is the creation of a COBRA tax subsidy for assistance eligible individuals.

What is COBRA?

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA), which is a federal law, employees must be provided the option to continue their group health insurance benefits, at the employee's expense, for up to 18 months after voluntary or involuntary termination, if the employer has 20 or more employees. New Hampshire has enacted a "mini" COBRA law similar to the federal COBRA law. The New Hampshire law covers employers with 2-19 employees. Under the New Hampshire law, insurance carriers are responsible for providing notice to an individual of their continuation rights including the new rules required by ARRA.

What is Changing?

Previously, a COBRA eligible individual was responsible for paying the entire premium in order to maintain coverage.

Under ARRA, certain individuals who are eligible for COBRA continuation health coverage, or similar coverage under State law, may receive a subsidy for 65 percent of the premium. These individuals are required to pay only 35 percent of the premium. The remaining 65 percent is paid by the employer or the insurance carrier (for employers with 2-19 employees it is the insurance carrier) and reimbursed by the Federal Government through a tax credit. The premium reduction applies to periods of health coverage beginning on or after February 17, 2009 and continues for up to nine months.

The employer or insurance carrier may recover the subsidy provided to assistance-eligible individuals by taking the subsidy amount as a credit against certain employment taxes. The credit is reported on the quarterly 941 employment tax return. Payroll tax deposits can be reduced by the subsidy amount after the insurance premium has been paid.

The qualifying event for purposes of eligibility for the subsidy is involuntary termination of employment that occurs during the period beginning Sept. 1, 2008, and ending Dec. 31, 2009. IRS has issued Notice 2009-27 providing guidance as to what constitutes an involuntary termination. The individual must also be eligible for COBRA coverage, or similar state coverage, to qualify for the subsidy.

The COBRA subsidy for an individual ends upon the individual's eligibility for other group coverage (or Medicare), after nine months of receiving the subsidy, or when the maximum period of COBRA coverage ends, whichever ever occurs first. Individuals paying reduced COBRA premiums must inform their plans if they become eligible for coverage under another group health plan or Medicare.

Former Employees Must be Notified of Their Rights

Under ARRA, employers (NH rules require insurance carriers) must notify qualifying employees who had declined COBRA coverage that they (and their spouses, ex-spouses and qualifying dependents) now have the right to choose to continue coverage.

The US Department of Labor has created a set of model notices that employers can use to inform eligible individuals of their COBRA rights as a result of the American Recovery and Reinvestment Act of 2009. To access the model notices, go to: www.dol.gov

Documentation Requirements

In order to claim the 65% credit, employers must maintain supporting documentation for the credit claimed. Such documentation includes, but is not limited to:

- Information on the receipt, including dates and amounts, of the assistance eligible individuals' 35% share of the premium.
- In the case of an insured plan, copy of invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA.
- In the case of a self-insured plan, proof of the premium amount and proof of the coverage provided to the assistance eligible individuals.
- Attestation of involuntary termination, including the date of the involuntary termination, for each covered employee whose involuntary termination is the basis for eligibility for the subsidy.
- Proof of each assistance eligible individual's eligibility for COBRA coverage at any time during the period from September 1, 2008, to December 31, 2009, and election of COBRA coverage.
- A record of the SSN's of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee, and whether the subsidy was for 1 individual or 2 or more individuals.
- Other documents necessary to verify the correct amount of reimbursement.

Resources

Additional information for employers is available from the US Department of Labor at www.dol.gov/ and from the IRS at www.irs.gov/

Stay Informed

These COBRA changes are significant, and this article only touches on the general impacts that employers should know about. At Checkmate, we're closely monitoring new developments resulting from this legislation. Stay informed with *Checkmate E-News* – a free, bi-weekly e-newsletter featuring payroll news and insights for NH employers. Call Joshua Robinson at (603) 225-2004 or email josh@checkmate-payroll.com to sign up today!

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