

Federal Stimulus – Group Coverage Continuation Subsidy

March 1, 2009

On February 17, 2009, the President 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 or Georgia state group health continuation insurance 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 or employer self-funded coverage. COBRA is the federal law that requires employers with 20+ employees to provide group continuation coverage for up to 18 months in most cases, but perhaps longer in cases of disability or other circumstances. For federal COBRA information, please contact the U.S. Department of Labor at 1-866-444-3272 or visit the agency's website (<http://www.dol.gov/ebsa/COBRA.html>).

Georgia state group continuation law requires insured employers of any size, including those with fewer than 20 employees, to provide group health continuation coverage. Individuals who have at least 6 months prior health insurance coverage are eligible for state continuation coverage from their employer's insurer for the fractional month of their termination from employment, plus 3 months additional continuation coverage. The citation is O.C.G.A. Section 33-24-21.1(c) and this law is available through the Georgia Legislature at www.legis.state.ga.us

Who is Eligible for Subsidized Coverage under the New Law?

Individuals who lose group health coverage because of an involuntary termination ("former employees") between September 1, 2008 and December 31, 2009 are eligible for a 65% federal subsidy of their federal COBRA for up to 9 months or state continuation coverage premiums for up to 3 months. This subsidy is not available to workers whose income in the year they receive the subsidy exceeds \$125,000 for individuals and \$250,000 for couples filing joint tax returns.

NOTE: 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 U.S. Department of Labor. For

the most up-to-date information, contact the U.S. 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 for employers with 20 or more employees and comparable state group continuation coverage for employers irrespective of number of employees.

When Will Eligible Individuals First Receive the Subsidy?

The subsidy will be applied to premiums for the first period of coverage beginning March 1, 2009. The subsidy is prospective (*i.e.*, the new law does not subsidize group continuation coverage prior to March 1, 2009).

NOTE: Eligible Individuals who have already paid premiums for coverage past March 1, 2009 are entitled to a refund or credit from their employer 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 former employer initially pays the remaining 65%, but the government will later reimburse the employer through a reduction in payroll taxes. Former employees will not be required to pay the full group coverage continuation premium and then seek a refund.

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 an eligible individual's employment was involuntarily terminated on or after September 1, 2008 and he or she initially declined to elect group continuation coverage, or elected group continuation coverage and later stopped paying premiums, the individual's employer must notify him or her of an additional opportunity to elect group continuation coverage and receive the subsidy. An eligible individual will have 60 days to enroll after receiving notification from his or her 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 as early as March 1, 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.

NOTE: The subsidy is available starting March 1, 2009 and applies only to coverage purchased on or after that date. The subsidy is not retroactive.

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

The new law requires the U.S. 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 U.S. 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 Georgia state continuation law provides for the fractional month of employee's termination plus up to 3 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 an individual's 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 elects subsidized COBRA coverage after March 1, 2009 would still have to pay 9 months of unsubsidized premiums if he or she continues for COBRA's normal 18 month term.

Can an Individual Lose Eligibility for the Group Continuation Subsidy?

An individual can lose eligibility for the group continuation subsidy in two ways. First, as mentioned above, the Georgia state continuation subsidy lasts no longer

than 3 months. Second, an individual will become ineligible for the subsidy when he or she becomes 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 U.S. Department of Labor at 1-866-444-3272 or visit the agency’s website (<http://www.dol.gov/ebsa/COBRA.html>).

For More Information

Call the Office of Commissioner of Insurance, Consumer Services Division at (800) 656-2298 or (404) 656-2070 or visit our website at

<http://www.gainsurance.org>