

TRAINING AND EMPLOYMENT NOTICE	NO. 14-09
	DATE November 16, 2009

TO: STATE WORKFORCE AGENCIES
 STATE WORKFORCE ADMINISTRATORS
 STATE WORKFORCE LIAISONS
 STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
 STATE LABOR COMMISSIONERS
 ONE-STOP CENTER SYSTEM LEADS
 COMPREHENSIVE AND AFFILIATE ONE-STOP CAREER CENTER
 DIRECTORS
 STATE RAPID RESPONSE COORDINATORS

FROM: JANE OATES 
 Assistant Secretary

SUBJECT: Notice to One-Stop Career Centers and Others Concerning COBRA Premium Reduction and Extended Eligibility Provisions in the American Recovery and Reinvestment Act of 2009

1. **Purpose.** To increase awareness of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provisions in the American Recovery and Reinvestment Act of 2009 and inform states and local areas about resources available to assist dislocated workers, businesses, and partners in understanding the new law. **Most of the language in this notice is identical to TEN 42-08, and is repeated because two important groups of addressees have been added. For those who received the previous notice, all of the new material is highlighted in boldface type. Most of the additions are in Section 5 (Action Requested) and Section 7 (Attachments).**
2. **References.** American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, Section 3001, 123 Stat. 115 (2009).
3. **Background.** Title III of Division B of the American Recovery and Reinvestment Act of 2009 (the Recovery Act) provides for premium reductions and additional election opportunities for health benefits under COBRA.

COBRA provides workers who lose their jobs, and related health benefits, the right to purchase group health coverage provided by their former employer's plan under certain circumstances. If the employer continues to offer a group health plan, the former employee and his/her family can retain their group health coverage for up to 18 months by paying group rates. The COBRA premium may be higher than what the individual was paying while employed but generally the cost is lower than that for private, individual health insurance coverage.

Under the Recovery Act, assistance eligible individuals pay 35 percent of their COBRA premiums and the remaining 65 percent is reimbursed to the health coverage provider through a tax credit. An assistance eligible individual is an employee or a member of his/her family who:

- Is eligible for COBRA continuation coverage at any time from September 1, 2008 through December 31, 2009;
- Elects COBRA continuation coverage (when first offered or during the additional election period); and
- Is eligible for COBRA as a result of the employee's involuntary termination from September 1, 2008 through December 31, 2009.

Under the Recovery Act, the term "COBRA continuation coverage" includes continuation coverage required under certain similar state laws.

Those who are eligible for other group health coverage (such as a spouse's plan or new employer's plan) or Medicare are not eligible for the premium reduction. The premium reduction only applies to periods of health coverage beginning on or after February 17, 2009, and lasts for up to nine months.

In addition, under the Recovery Act, individuals who did not elect COBRA coverage when they were eligible or elected COBRA but dropped it from September 1, 2008 through February 16, 2009, may be eligible for a new opportunity to elect COBRA coverage and take advantage of the premium reduction.

Plans are required to provide notice to employees and their families to make them aware of their new rights – a general notice regarding the premium reduction which includes the forms individuals need to establish eligibility for the premium reduction, and a notice of the new COBRA election period. The Department of Labor's Employee Benefits Security Administration (EBSA) has issued model notices that plans can use to comply. The model notices are available at www.dol.gov/COBRA.

If a private-sector plan that is subject to COBRA requirements denies any request, the individual can request an expedited review of the denial from the U.S. Department of Labor. EBSA **has finalized** an official application form that will be required to be completed for appeals. Individuals **can** to file the application online at www.dol.gov/COBRA or print the application from the Web site and mail or fax it to the Department. The Department must make a determination within 15 business days of receipt of a completed application for review. Appeals under other plans (**such as state or municipal plans**) are handled by the U.S. Department of Health and Human Services (for additional information please consult the resources identified in Section 4.)

Part VI of Title I-I of Division B of the Recovery Act also makes several amendments to the Health Coverage Tax Credit (HCTC) provisions that were enacted as part of the Trade Act of 2002. The HCTC assists certain individuals who become eligible for trade adjustment assistance and certain retired employees who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC) in paying for qualified health insurance

coverage, including COBRA continuation coverage. Under those provisions, eligible individuals may either claim a year-end tax credit or have monthly advance payments made on their behalf in an amount equal to 65 percent of the amount paid for qualified health insurance coverage. The Recovery Act increases the amount of the credit to 80 percent of the premium amount for coverage months beginning on or after May 1, 2009 and before January 1, 2011, and provides temporary extensions of the maximum period of COBRA continuation coverage for PBGC recipients (covered employees who have a nonforfeitable right to a benefit any portion of which is to be paid by the PBGC) and TAA-eligible individuals. The Recovery Act also amends the definition of eligible TAA recipients for purposes of HCTC to include certain TAA recipients who are in breaks in training and certain TAA recipients who are receiving unemployment compensation regardless of whether they have met TAA enrollment in training requirements (see Unemployment Insurance Program Letter 21-09 for a further description of the changes to the definition).

NOTE: At the time of the issuance of this TEN, legislation was pending that would extend the COBRA premium reduction. Please check EBSA's COBRA web page at www.dol.gov/COBRA for updates.

4. **Resources.** EBSA is providing assistance to employees and their families as well as employers regarding the new COBRA provisions. The public can contact EBSA tollfree at 1-866-444-3272 (EBSA) or electronically at www.askebsa.dol.gov for assistance from EBSA Benefit Advisors across the country to answer questions, provide information, and informally resolve benefit disputes.

EBSA also is engaged in an outreach and education campaign to create awareness and understanding of the new COBRA provisions by dislocated workers, their families, and businesses to assist them in taking the timely actions necessary to exercise their rights and responsibilities. For example, plans are required to provide the notice of the COBRA election period **and their rights to the premium reduction**, and dislocated workers and their families have 60 days from receipt of the notice to elect COBRA coverage.

The campaign includes, among other efforts:

- A dedicated Web page, www.dol.gov/COBRA which includes educational information (fact sheet, frequently asked questions (FAQs), publications), compliance assistance materials (FAQs for employers, model notices, publications, guidance), tools to use for outreach (posters, flyers, and videos), tools to assist individuals in exercising their right to expedited review by the Department (a downloadable version of the official application and the ability to file online), as well as information on upcoming outreach events sponsored by EBSA. The Agency is providing many of these materials on the Web page in Spanish. EBSA is encouraging visitors to subscribe for notice of updates to the page. The Web page also includes links to the COBRA Web pages of the U.S. Department of Health and Human Services and the Internal Revenue Service.
- Posters and flyers for distribution to create awareness among dislocated workers and their families as well as employers in English and Spanish.
- Updates to three publications: Retirement and Health Care Coverage...Questions and Answers for Dislocated Workers; An Employee's Guide to Health Benefits Under COBRA; and, An Employer's Guide to Group Health Continuation Coverage Under

COBRA. The Spanish versions of these three publications also **have been** updated. EBSA also is updating additional COBRA materials.

- A video of EBSA's rapid response presentation which includes information on the new COBRA provisions. EBSA **has developed** this video in Spanish as well.
- Webcasts and expanded health compliance seminars to assist employers in understanding their new responsibilities.

5. **Action Requested.** Addressees are requested to share this information with dislocated workers, businesses, and partners in their local areas as appropriate by linking their Web site to EBSA's dedicated COBRA page, placing posters and flyers in their office and making other materials available to visitors. **EBSA has sent the One-Stop Career Centers hard copies of the appropriate flyers, a fact sheet and the official application for requesting the U.S. Department of Labor's (DOL) review for individuals whose employer or health insurance plan denied them the COBRA premium reduction. Copies of the posters – and additional copies of the flyers, fact sheet and application for DOL review -- as well as copies of other publications and a video can be requested as noted below.**

The premium reduction is extremely valuable to eligible individuals, who can pay almost two thirds less to continue their health coverage for up to nine months. In view of the One-Stop Career Centers' role as a vital link in service delivery for dislocated workers, ETA requests that the One-Stop Career Centers make available to all relevant customers the EBSA materials listed below. Please note that all of the documents listed below (except the application form) are attached to this notice. The Internet addresses are included for your convenience.

Documents for Workers or Former Workers

- **COBRA poster in the format of a flyer (www.dol.gov/ebsa/pdf/joblossposter2.pdf in English, and www.dol.gov/ebsa/pdf/joblosspostersp2.pdf in Spanish).**
- **COBRA flyer for individuals (www.dol.gov/ebsa/pdf/cobrastimulusflyer2.pdf in English, and www.dol.gov/ebsa/pdf/cobrastimulusflyersp2.pdf in Spanish).**
- **COBRA flyer for individuals whose employer or health insurance plan denied them the COBRA premium reduction (www.dol.gov/ebsa/pdf/distributionflyer09.pdf in English, and www.dol.gov/ebsa/pdf/distributionflyersp09.pdf in Spanish).**
- **Official application for DOL review for individuals whose employer or health insurance plan denied them the COBRA premium reduction (www.dol.gov/ebsa/COBRA/main.html).**

Documents for Employers

- **COBRA flyer for employers (www.dol.gov/ebsa/pdf/cobrastimulusflyer1.pdf in English, and www.dol.gov/ebsa/pdf/cobrastimulusflyersp1.pdf in Spanish).**

ETA also requests that One-Stop Career Centers review the information on the EBSA Web site dedicated to explaining this benefit to individuals who have lost their jobs in

the current economic recession, and make available to individuals and employers any other relevant flyer from this EBSA Web site (www.dol.gov/ebsa/COBRA.html).

All recipients of this TEN are invited to participate in a Webinar jointly hosted by ETA and EBSA to explain the COBRA provisions under the Recovery Act. The Webinar will be conducted on Monday, November 23, 2009, from 2:00 to 3:00 p.m. Eastern Standard Time. ETA will include instructions on how to sign up for this Webinar in a subsequent invitation.

6. **Inquiries.** For questions or additional copies of materials, contact Debra Golding at (202) 693-8665.

7. **Attachments.** For your convenience, the EBSA documents listed below are attached to this notice. If you would like free copies of the full-size version of the poster, printed versions of the flyers listed below, the application to request DOL review, or any other documents (such as a *Frequently Asked Questions* document or *Retirement and Health Care Coverage...Questions and Answers for Dislocated Workers* – known as the red book), visit EBSA’s dedicated COBRA Web site (www.dol.gov/ebsa/COBRA.html), or call EBSA toll-free at 1-866-444-3272.
 - The COBRA poster in the format of a flyer (in English and Spanish)
 - COBRA flyer for individuals (in English and Spanish)
 - Flyer for individuals whose employer or health insurance plan denied them the COBRA premium reduction (in English and Spanish)
 - COBRA flyer for employers (in English and Spanish)

Job Loss?

Important Information Workers Need to Know to Protect their Health Coverage and Retirement Benefits

Working for an employer who offers health and retirement benefits is one of the smartest things an employee can do. But what happens when you leave the job? What happens to your health and retirement benefits if you are downsized or go to work for another employer?

The good news is that you have protections under federal law. You may be able to continue your health care coverage, for instance. And you'll want to protect the retirement benefits you've earned so you will have them when you retire. Know the benefits and protections you are entitled to and where to go with questions.

If you have questions or want free booklets about your health benefit rights and retirement plan protections, call the Employee Benefits Security Administration office near you at 1-866-444-EBSA (3272).



1

Extend your health care coverage

You may have a special enrollment opportunity in your spouse's plan. Or, if you belong to an employer-sponsored health benefits plan and if your employer's firm has more than 20 employees, you may be able to extend your health coverage under a law called COBRA, the Consolidated Omnibus Budget Reconciliation Act. COBRA lets you purchase continued health care coverage at the same group rates paid by your former employer's plan plus an added 2 percent for administrative fees. Coverage can last from 18 to 36 months.

If you lost your job on or after September 1, 2008, you may be eligible for a 65 percent reduction in your COBRA premium for up to 9 months. If you did not elect COBRA coverage when you were eligible on or after September 1, 2008, or elected the coverage but dropped it, you may be eligible for a new opportunity to elect COBRA coverage and take advantage of the premium reduction.

2

Your new employer's health benefits plan can't exclude you because of a prior health condition

When you switch jobs, you cannot be denied enrollment in your new employer's health benefits plan due to a pre-existing medical condition. That's the law under HIPAA, the Health Insurance Portability and Accountability Act. In addition, if you had health coverage in your previous job, you may be able to receive credit that will reduce certain exclusion periods for pre-existing conditions.

3

Protect the retirement benefits you've earned

Keep your records. When you leave a job or retire, make sure you have copies of your retirement plan's Summary plan Description, or SPD as it is usually called, and any amendments. These documents tell you if you're eligible for a retirement and when you can receive retirement benefits. Learn about these and other retirement safeguards under ERISA, the Employee Retirement Income Security Act.

¿Pérdida de Trabajo?

Proteja Sus Derechos de Pensión y Beneficios de Salud

El trabajar para un empleador que ofrezca beneficios, de pension y de salud, es una de las cosas más inteligentes que un empleado puede hacer. ¿Pero qué pasa cuando usted deja el trabajo? ¿Qué ocurre con sus beneficios de pension y salud, si usted queda desempleado o va a trabajar para otra empresa?

La buena noticia es que usted tiene protecciones bajo la ley federal. Por ejemplo, usted podría continuar su cobertura de asistencia médica. Usted querrá proteger los beneficios de pension que usted ha ganado para que estén allí, cuándo usted se jubile. Sepa los beneficios y protecciones que a usted le pertenecen y a donde acudir cuando usted tenga preguntas.

Si usted tiene preguntas o quiere los folletos gratuitos de sus derechos de beneficio de salud y del plan de protecciones de jubilación, llame a la oficina de Administración de Seguridad para los Beneficios de Empleados más cercana a usted y 1-866-444-EBSA (3272).

Derechos para los Beneficios de Pensión y Salud

1

Extienda su cobertura de asistencia médica

Usted pudiera tener una oportunidad de inscripción especial en el plan de su esposo. O, si usted pertenece a un plan de salud auspiciado por su empleador — y si la empresa tiene más de 20 empleados — usted podría extender su cobertura médica bajo una ley llamada COBRA, La Ley Ómnibus Consolidada de Reconciliación Presupuestaria. COBRA le permite comprar cobertura de asistencia médica continua al mismo costo que paga el plan grupal de su empleador, más un 2 por ciento que se agrega para los gastos administrativos. La cobertura puede durar desde 18 meses hasta 36 meses.

Si usted perdió su empleo el 1 de septiembre de 2008 o después, usted puede ser elegible para obtener una reducción del 65 por ciento en su prima de COBRA hasta por 9 meses. Si usted no eligió la cobertura de COBRA cuando era elegible el 1 de septiembre de 2008 o después, o eligió dicha cobertura pero la dejó, usted puede ser elegible para elegir nuevamente la cobertura de COBRA y aprovechar el descuento en la prima.

2

El plan de beneficios médicos de su nuevo empleador no puede excluirlo debido a una condición médica pre-existente

Cuando usted cambia de trabajo, no se le puede negar la inscripción al plan de beneficios médicos de su nuevo empleador debido a una condición médica pre-existente. Eso es lo que dice la ley HIPAA, La Ley de Responsabilidad y Portabilidad del Seguro Médico. Adicionalmente, si usted ha tenido cobertura médica en su trabajo anterior, usted podría recibir crédito que reduciría ciertos períodos de exclusión por sus condiciones pre-existentes.

3

Proteja los beneficios de pensión que usted ha ganado

Mantenga un récord de su pensión. Cuando usted deje un trabajo o se jubile, asegúrese que tenga copias del plan de su pensión y Descripción Sumario del Plan, o el SPD como usualmente se llama, y cualquier enmienda. Estos documentos le dicen si usted es elegible para una pensión y cuando usted puede recibir los beneficios de su pensión. Aprenda acerca de estas y otras protecciones de pensiones bajo ERISA, La Ley de Seguridad de los Ingresos de Jubilación para los Empleados.

LOST YOUR JOB AND NEED HELP PAYING YOUR COBRA PREMIUMS?

**OR, WHEN YOU LOST YOUR JOB,
DID YOU NOT TAKE COBRA
BECAUSE YOU COULD NOT AFFORD
THE PREMIUMS?**

If you were involuntarily terminated on or after September 1, 2008 and are not eligible for other health coverage (such as a spouse's health plan or Medicare), then you may be eligible for a 65 percent reduction of your COBRA premium for up to 9 months. If you didn't elect COBRA, you may have an additional opportunity to elect it now and take advantage of the premium reduction.

For more information, ask your former employer or contact the U.S. Department of Labor's Employee Benefits Security Administration at:

1-866-444-3272

or

visit www.dol.gov/COBRA



¿PERDIÓ SU EMPLEO Y NECESITA AYUDA PARA PAGAR SUS PRIMAS DE COBRA?

¿O, CUANDO PERDIÓ SU EMPLEO, USTED NO ELIGIÓ A COBRA PORQUE NO PODÍA PAGAR LAS PRIMAS?

Si usted quedó sin empleo involuntariamente a partir del 1 de septiembre de 2008 y no es elegible para ninguna otra cobertura en salud (tal como plan de salud de su cónyuge o Medicare), usted puede ser elegible para un descuento del 65 por ciento de su prima de COBRA hasta por 9 meses. Si usted no eligió COBRA, usted puede tener otra oportunidad para elegirla ahora y aprovechar el descuento en la prima.

Para mayor información, pregunte a su anterior empleador o contacte a la Administración de Seguridad de Beneficios del Empleado del Departamento de Trabajo de los EE.UU. en el

1-866-444-3272

o

visite www.dol.gov/COBRA



HAS YOUR REQUEST FOR A REDUCTION OF YOUR COBRA PREMIUM BEEN DENIED?

IF SO, YOU CAN REQUEST AN EXPEDITED REVIEW OF THE DENIAL FROM THE U.S. DEPARTMENT OF LABOR

If you were involuntarily terminated on or after September 1, 2008 and are not eligible for other health coverage (such as a spouse's health plan or Medicare), then you may be eligible for a 65 percent reduction of your COBRA premium for up to nine months.

To request the Department's review, use the application at www.dol.gov/COBRA under Review of Subsidy. You can file online, or print a copy and fax or mail it in. The Department must make a determination within 15 business days of receipt of a completed application.



If you have questions about where to find the application or where to file it, contact the Department of Labor at:

1-866-487-2365

or visit

www.dol.gov/COBRA

for more information.

 Application to the U. S. Department of Labor for Expedited Review of Denial of COBRA Premium Reduction 	
<small>GMB Control Number 1219-0135 Exp. Date 11/30/2009</small>	
Applicant's Information * Denotes required information	
*Name Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms. <input type="checkbox"/>	
Last <input type="text"/>	First <input type="text"/> Middle Initial <input type="text"/>
*Street Address <input type="text"/>	
*City <input type="text"/> State <input type="text"/> Zip code <input type="text"/>	
*Best phone number to reach you during business hours	
Home <input type="text"/>	Work <input type="text"/> Cell <input type="text"/>
Alternate phone number:	
Home <input type="text"/>	Work <input type="text"/> Cell <input type="text"/>
Email Address: <input type="text"/>	
<small>*Date completed is as indicated</small>	
<small>Date of termination of health coverage</small>	



¿SE RECHAZÓ SU SOLICITUD DE REDUCCIÓN DE PRIMA SEGÚN COBRA?

DE SER ASÍ, PUEDE SOLICITAR UNA REVISIÓN ACELERADA DE LA NEGACIÓN DE SU SOLICITUD AL DEPARTAMENTO DE TRABAJO DE LOS ESTADOS UNIDOS

Si la terminación laboral involuntaria se ocurrió el 1 de septiembre de 2008 o después y usted no es elegible para recibir otra cobertura de salud (como el plan de salud de su cónyuge o Medicare), entonces podrá ser elegible para recibir un 65% de reducción de la prima según COBRA durante un período de hasta nueve meses.

Para solicitar la revisión al Departamento, utilice la solicitud incluida en www.dol.gov/COBRA bajo el título Review of Subsidy (Revisión de subsidios). Puede completarla en línea o imprimir una copia y enviarla por fax o correo postal. El Departamento debe tomar una decisión dentro de los 15 días laborales posteriores a la recepción de una solicitud completa.

Si tiene alguna pregunta acerca de dónde encontrar la solicitud o dónde presentarla, comuníquese con el Departamento de Trabajo al:

1-866-487-2365

o visite

www.dol.gov/COBRA

Para obtener más información.



Información del solicitante		*Indica la información obligatoria	
*Nombre	Pr. Sra. Srta.		
Apellido	Nombre	Inicial del segundo nombre	
*Dirección			
*Ciudad	Estado	Código postal	
*Número de teléfono durante el horario laboral	Particular	Laboral	Celular
	Número de teléfono alternativo:	Particular	Laboral
Dirección de correo electrónico			
*Fecha de desempleo (mes/año)			
*Fecha de finalización de los beneficios del plan de salud de grupo o del seguro de			

IF YOUR GROUP HEALTH PLAN IS SUBJECT TO COBRA, THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) MAY IMPACT YOU

There are new COBRA notice requirements that apply if any individual under your plan had a COBRA qualifying event on or after September 1, 2008. There are also additional COBRA election opportunities for certain individuals with qualifying events from September 1, 2008 through February 16, 2009.

For more information on the COBRA provisions and notice requirements under ARRA, contact the U.S. Department of Labor's Employee Benefits Security Administration at:

1-866-444-3272

or visit

www.dol.gov/COBRA

For more information on the tax provisions of ARRA contact the IRS at:

www.irs.gov



SI SU PLAN GRUPAL DE SALUD ESTÁ SUJETO A COBRA, LA AMERICAN RECOVERY AND REINVESTMENT ACT DE 2009 (ARRA) PUEDE AFECTARLE

Hay nuevos requisitos de notificación de COBRA que aplican si cualquier persona que esté bajo su plan tuvo un evento que le calificara para COBRA a partir del 1 de septiembre de 2008. También hay oportunidades adicionales para elegir COBRA para ciertas personas que tengan eventos que les califiquen para ello entre el 1 de septiembre de 2008 y el 16 de febrero de 2009.

Para mayor información sobre las disposiciones de COBRA y los requisitos de notificación de ARRA, contacte a la Administración de Seguridad de Beneficios del Empleado del Departamento de Trabajo de los EE.UU. en el:

1-866-444-3272

o visite

www.dol.gov/COBRA

Para mayor información sobre las disposiciones tributarias de ARRA, contacte al IRS y:

www.irs.gov