

**COBRA Provisions of the 2009 Stimulus Bill
(The American Recovery and Reinvestment Act of 2009)**

Information Specific to Small Groups Who Offer State Continuation Coverage

April 22, 2009

The economic stimulus legislation (The American Recovery and Reinvestment Act of 2009 (“ARRA”)) was signed into law by President Obama on February 17, 2009 (the “Enactment Date”). It provides a number of health-related provisions, including a premium subsidy for COBRA and State Continuation coverage (“Subsidy”), for employees who are involuntarily terminated between September 1, 2008, and December 31, 2009.

The Subsidy is intended to assist eligible individuals to keep their health care coverage by reducing their COBRA/State Continuation premium payments for a period of up to 9 months. Below are some key points related to the administration of State Continuation coverage as a result of the ARRA.

Qualification as an Assistance Eligible Individual (AEI)

Who qualifies for the Subsidy for State Continuation?

To be considered an Assistant Eligible Individual (AEI) and qualify for the Subsidy for State Continuation coverage, an individual must be able to make the following representations:

- They were eligible for State Continuation coverage* at any time during the period from September 1, 2008, through December 31, 2009 and elected coverage;
- They have a State Continuation coverage election opportunity related to an involuntary termination of employment that occurred at some time from September 1, 2008, through December 31, 2009;
- They are not eligible for Medicare; AND
- They are not eligible for coverage under any other group health plan, such as a plan sponsored by a successor employer or a spouse’s employer.

*Eligibility for continuation coverage is still subject to the North Carolina State Continuation Statute (NCGS 58-53-1). Such eligibility requirements include, but are not limited to, that the employee must have been continuously insured under

This document is intended as general information on the COBRA piece of the new Stimulus Bill. The information is not in any way meant to provide legal advice. If you have questions regarding COBRA and your obligations as an employer, you should contact legal counsel.

the group policy during the period of three consecutive months immediately before the date of termination.

Election Notice

On March 29, 2009, the Department of Labor issued model notices to inform qualified beneficiaries about the Subsidy. What information does the model notices contain?

The model notices provide information and application forms for both State Continuation coverage and eligibility for the Subsidy. BCBSNC will send out a general notice that includes an election form for both State Continuation and the Subsidy to those who are eligible for State Continuation but have not yet elected. In addition, BCBSNC will send an abbreviated notice which includes only the election of the Subsidy, for those qualified beneficiaries who have already elected State Continuation.

Who must send the notices?

BCBSNC is required to send notices to all persons eligible for continuation coverage under the ARRA. BCBSNC will send all notices prior to April 18, 2009.

Who will BCBSNC send the Notices to?

BCBSNC will send the Notices to all persons who meet the following criteria;

- Qualified beneficiary (not just covered employees);
- Who experienced a qualifying event at any time from September 1, 2008, through December 31, 2009; and
- Who either:
 - Elected State Continuation and may be eligible for the Subsidy; or
 - Are eligible to elect State Continuation.

Note: The NC General Assembly is currently considering legislation which would provide a special election period for State Continuation coverage. If this legislation is adopted, individuals who experienced a qualifying event between September 1, 2008, and February 17, 2009, will have a second opportunity to elect State Continuation coverage. If this legislation is adopted, BCBSNC will send the required notice to each of these individuals as required by law.

Election of the Subsidy

If a qualified beneficiary qualifies as an AEI, how do they request the Subsidy?

The qualified beneficiary requests treatment as an AEI by completing the "Request For

This document is intended as general information on the COBRA piece of the new Stimulus Bill. The information is not in any way meant to provide legal advice. If you have questions regarding COBRA and your obligations as an employer, you should contact legal counsel.

Treatment As An Assistance Eligible Individual” form which is included in both the General and Abbreviated Notices.

Who determines if an individual is eligible for the Subsidy?

The Notice requires the qualified beneficiary to verify that he or she satisfies the criteria necessary to be eligible for the Subsidy. Since eligibility for any qualified beneficiary is dependent on an employee’s involuntary termination, BCBSNC will contact the employer to confirm that the employee was involuntarily terminated, upon receipt of a Subsidy election form. BCBSNC will require the employer to confirm the involuntary termination in writing.

What if the Employer does not confirm the employee was involuntarily terminated?

In the event the qualified beneficiary and employer disagree with respect to whether the employee was involuntarily terminated, BCBSNC will notify the qualified beneficiary and they will have the right to have the denial reviewed by the Department of Health and Human Services.

Who determines whether the qualified beneficiary satisfies the income limitations on eligibility for the Subsidy?

It is up to the qualified beneficiary to determine whether he or she satisfies the income eligibility limitations. Even if the employer believes the individual’s income is high enough that the individual is not eligible for the Subsidy, BCBSNC will provide State Continuation coverage upon payment of 35% of the premium unless the qualified beneficiary notifies BCBSNC that he or she has elected the permanent waiver of the premium reduction.

What obligations does the employer have to a qualified beneficiary who enrolls in State Continuation coverage but does not apply for the Subsidy or is determined to be ineligible for the Subsidy?

If the qualified beneficiary enrolls in State Continuation coverage, but does not apply for the Subsidy or is ineligible for the Subsidy, **the employer must resume responsibility** for billing the qualified beneficiary, all future payments must be made to the employer, and the employer must remit the appropriate amount to BCBSNC as part of their group premium payment.

What if the qualified beneficiary does not claim eligibility for the Subsidy?

If for any reason the qualified beneficiary does not claim eligibility for the Subsidy, but wants to enroll in State Continuation coverage, BCBSNC has instructed the qualified beneficiary in the Notice to return the State Continuation election form within 60 days after the postmarked date of the notice to his or her employer.

What happens when the Subsidy period ends?

An AEI is eligible for up to nine months of premium reduction for each involuntary

This document is intended as general information on the COBRA piece of the new Stimulus Bill. The information is not in any way meant to provide legal advice. If you have questions regarding COBRA and your obligations as an employer, you should contact legal counsel.

termination. At the end of the Subsidy-eligible period, BCBSNC will advise the qualified beneficiary and the employer that the qualified beneficiary is responsible for the full cost of State Continuation coverage. If the qualified beneficiary elects to continue State Continuation coverage, the employer must resume responsibility for billing the qualified beneficiary, all future payments must be made to the employer, and the employer must remit the appropriate amount to BCBSNC as part of the group premium payment.

Payment of Premiums

If a qualified beneficiary is eligible for the Subsidy, how much of the total premium must they pay?

If the qualified beneficiary is eligible for the Subsidy, the qualified beneficiary is responsible for paying 35% of the total premium. BCBSNC is responsible for paying the remaining 65% of the premium and requesting reimbursement from the federal government through payroll taxes.

How will the AEI know the amount of premium owed for State Continuation coverage?

BCBSNC will state the total amount of premium owed for each month of coverage in both the general and abbreviated notices. The notices will also indicate the amount of payment owed if the individual qualifies as an AEI. During the individual's eligibility for the Subsidy, BCBSNC shall invoice the AEI for the 35% of the total premium owed.

When must the AEI send payment of the premium amount?

No payment is required with the Election Form for State Continuation or the Subsidy. If the qualified beneficiary elects State Continuation coverage and is eligible for the Subsidy, payment must be received by BCBSNC within 60 days after the postmarked date of the Notice.

What if a qualified beneficiary elects State Continuation but does not elect or is not eligible for the Subsidy?

The Notice explains that in the event a qualified beneficiary elects State Continuation but does not elect or is not eligible for the Subsidy, the State Continuation election form and premium payments must go to the Employer, not BCBSNC.

More Information

Who should employees or Plan Administrators contact with questions?

The following toll-free phone number is dedicated to calls related to ARRA and State Continuation.

Dedicated Line for ARRA and State Continuation Questions: 1-888-234-2411

This document is intended as general information on the COBRA piece of the new Stimulus Bill. The information is not in any way meant to provide legal advice. If you have questions regarding COBRA and your obligations as an employer, you should contact legal counsel.



Employers can also find more general information about COBRA on the employer section of [bcbsnc.com](http://www.bcbsnc.com):

<http://www.bcbsnc.com/content/employers/index.htm>

An independent licensee of the Blue Cross and Blue Shield Association.
® and SM Marks of the Blue Cross and Blue Shield Association.

This document is intended as general information on the COBRA piece of the new Stimulus Bill. The information is not in any way meant to provide legal advice. If you have questions regarding COBRA and your obligations as an employer, you should contact legal counsel.