

# Massachusetts Law Reform Institute

99 Chauncy Street, Suite 500, Boston, MA 02111-1703

PHONE 617-357-0700 ■ FAX 617-357-0777 ■ [www.mlri.org](http://www.mlri.org)

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## COBRA Premium Assistance: What is it?

The recently enacted federal stimulus law created a new temporary program to pick up 65% of the premium cost of continuing group health insurance coverage for recently laid-off workers and their families for up to 9 months. This means, for example, that a laid-off worker who was paying \$1000 a month to continue family coverage with no premium assistance, will be able to maintain the same coverage for \$350 per month with premium assistance. Laid-off workers collecting unemployment compensation and eligible for the Medical Security Plan will be able to obtain continuation coverage at an even lower cost if they are also eligible for COBRA premium assistance. This summary provides a preliminary look at who is eligible for premium assistance under this new law and when assistance may begin.<sup>1</sup>

### Who is eligible for COBRA premium assistance?

- Individuals who-
  - Were “involuntarily terminated” from employment at any time between September 1, 2008 and December 31, 2009;
    - This excludes individuals terminated for gross misconduct.
  - Were eligible for health insurance continuation coverage based on this loss of employment;
    - This means the individual was enrolled in an employers’ group health plan before losing his/her job;
    - The employer was required to offer “continuation coverage” under federal law (COBRA) or Massachusetts’ law (mini-COBRA); and
    - The employer is still in business and offering insurance to current employees.
  - Chose to participate in continuation coverage;
    - Individuals who worked for employers with 20 or more employees and did not initially choose COBRA coverage (or elected coverage and then dropped it) will have a second chance to elect coverage.
      - The second chance to elect continuation coverage only applies to employees “involuntarily terminated” between September 1, 2008 and February 17, 2009 (the effective date of the new law).

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<sup>1</sup> Premium Assistance for COBRA Benefits, Title III of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5.

- The second chance to elect continuation coverage will not apply to mini-COBRA (continuation coverage under MA law applicable to employers with 2-19 employees) unless MA changes the mini-COBRA law to require a second chance; and
    - Pay 35% of the cost of continuation coverage.
- The “involuntarily terminated” individual’s spouse and dependents eligible for continuation coverage are also eligible for premium assistance.
- Individuals with adjusted gross income of \$125,000 or more for a single tax filer or \$250,000 or more for a joint filer may have to repay some or all of any premium assistance they receive.

**How do laid-off workers obtain COBRA premium assistance?**

- The new law provides that an eligible individual’s payment of 35% of the cost for continuation coverage counts as full payment for payments due after February 17, 2009. It is up to the employer to apply for the remaining 65% cost as a credit against its payroll taxes.
- Employers are required to send out a notice about the new premium assistance program including “the forms necessary for establishing eligibility.”
  - Call your former employer or plan administrator about taking advantage of COBRA Premium Assistance.
  - Laid-off workers who have moved should be sure to give their current mailing address to their former employers.
- An individual who is denied the benefits of COBRA premium assistance is entitled to an expedited review of the employer’s decision at the U.S. Dept. of Labor. A complaint form will be posted on its website: [www.dol.gov/cobra](http://www.dol.gov/cobra)

**When will COBRA premium assistance begin?**

- No premium assistance is available before February 17, 2009, the date the new law was enacted.
- The earliest that premium assistance will be available for most laid-off workers is March 1, 2009; but the law allows employers 60 days from February 17, 2009 to give notice about Premium Assistance. Eligible employees who pay the full premium in March and April 2009 will be entitled to a refund or credit for the overpayment.
- If an individual who was involuntarily terminated from employment between September 1, 2008 and February 17, 2009 did not elect continuation coverage available pursuant to federal law (or elected it then dropped it), he or she will have a second chance to elect coverage within 60 days from receipt of notice about COBRA premium assistance and the special election period. However, the subsidy will still begin no earlier than February 17, 2009.
- Employers are required to give notice of the new premium assistance program and other rights under the new law to former employees who became or become eligible for continuation coverage between September 2008 and December 2009.
  - Employers must give notice within 60 days of February 17, 2009 to eligible individuals, and must include information about the new premium

assistance program in COBRA notices going out to workers losing coverage after that date.

- Within 30 days of February 17, 2009, federal agencies must develop a model notice for use by employers.

### **COBRA premium assistance and the Medical Security Plan**

- The Medical Security Plan (MSP) currently subsidizes up to 80% of the premium costs of COBRA for certain unemployment compensation recipients. This meant, for example, that an employee who paid \$1000 for continuation coverage was reimbursed \$800 by MSP for a net employee cost of \$200 per month. Now with federal COBRA PA, the UC recipient will only have to pay \$350 for the same continuation coverage and he or she will be reimbursed \$280 (80%) by MSP for a net employee cost of \$70 per month.
- If it would be a hardship for a UC recipient to pay the employee share of COBRA coverage, MSP provides a direct coverage plan with no added premium cost. With the employee's cost of coverage reduced from 100% to 35% with COBRA PA, and the employee's net cost reduced from 20% to 7% with MSP PA, more employees may be able to enroll in continuation coverage without hardship. However, hardship is still presumed for those with family income under 200% of poverty.
  - There is no change for UC recipients who were never eligible for continuation coverage; MSP direct coverage remains available to them.
  - Currently, about 2/3 of MSP participants are receiving direct coverage, and 1/3 are receiving premium assistance.
- By reducing the cost to laid-off workers of continuation coverage, COBRA PA will also offset some of the added costs to the MSP Trust Fund of the increase in the unemployment rate and the federal extension of unemployment benefits which has extended the period of MSP eligibility.
- For more information on MSP and COBRA PA, visit the website of the Division of Unemployment Assistance: [www.mass.gov/dua](http://www.mass.gov/dua).

### **Other information about COBRA premium assistance-**

- Premium assistance ends after 9 months or earlier if the individual becomes eligible for another group health plan or Medicare or the COBRA period expires.
- The value of the 65% subsidy cannot be counted as income in any federal or state benefit program in determining eligibility or the amount of assistance.
- For more information, visit the U.S. Dept. of Labor website at <http://www.dol.gov/ebsa/cobra.html> or call one of its Benefits Advisors at 1-866-444-3272.