



ARRA COBRA Subsidy Extended

On March 2, 2010, President Obama signed into law the Temporary Extension Act of 2010 (HR 4691). This law extends the COBRA subsidy eligibility period under ARRA to **March 31, 2010**

The significant change involves the expanded eligibility related to reduction in hours. This rule only applies to periods of coverage beginning after March 2, 2010. Most COBRA periods of coverage start on the first of the month so the first subsidized coverage period would start on April 1, 2010.

The New Law Makes The Following Changes:

- **New Sunset Date:** It extends the COBRA subsidy eligibility period (for Qualifying Events on or after September 1, 2008) through March 31, 2010. This period had expired on February 28, 2010. Recall that the subsidy is a 65% discount off the regular COBRA premium for up to 15 months. Only Assistance Eligible Individuals (AEIs) qualify for the subsidy.
- **Expanded Eligibility:** The law provides the subsidy for an additional group of Qualified Beneficiaries. The ARRA subsidy is now available to individuals who experience a reduction in hours followed by an involuntary termination of employment that occurs on or after March 2, 2010, and on or before March 31, 2010. The prior rule was that involuntary terminations of employment and reduction in hours “in anticipation” of involuntary terminations were the only Qualifying Events eligible for the subsidy. The term “in anticipation” was undefined and difficult to administer.
- **Enhanced Enforcement:** If a plan sponsor or an insurance carrier continues to deny a subsidy request even after the DOL has ruled that it should be approved, a penalty of up to \$110 per day may be issued. This penalty would start 10 days after the plan sponsor or insurance carrier received the DOL’s determination.
- **Employer Determination Safe Harbor:** Employer determinations to provide the subsidy are deemed valid as long as the determination is based on a reasonable interpretation and the employer maintains supporting documentation.

Some Qualified Individuals with a reduction in hours Qualifying Event may never have elected COBRA or at some point discontinued COBRA. For those individuals, a new special election right exists if they are terminated involuntarily on or after March 2, 2010, and on or before March 31, 2010. Plan administrators must notify them of their rights within 60 days of the involuntary termination of employment. These special election rules operate in the same way as last year’s ARRA special election rules.

The new law does not change the length of the COBRA maximum coverage period. It is still based on the original reduction in hours Qualifying Event date. Also, the COBRA maximum coverage period may have already expired for some of these individuals; in such an event, this law does not provide them with more COBRA coverage simply because they were involuntarily terminated during the March 2-31, 2010, time frame. The subsidy period (up to 15 months) is based on the first coverage period after the March 2, 2010, date of enactment (I.e., April 1, 2010, for most plans).