

Wells Fargo Insurance Services

New COBRA Rules in Stimulus Law





Agenda

- COBRA Premium Assistance
- Second-Chance COBRA Election
- Equal- or Lower-Cost COBRA Option
- TAA Health Coverage Improvement Act
- Summary
- Questions and Answers



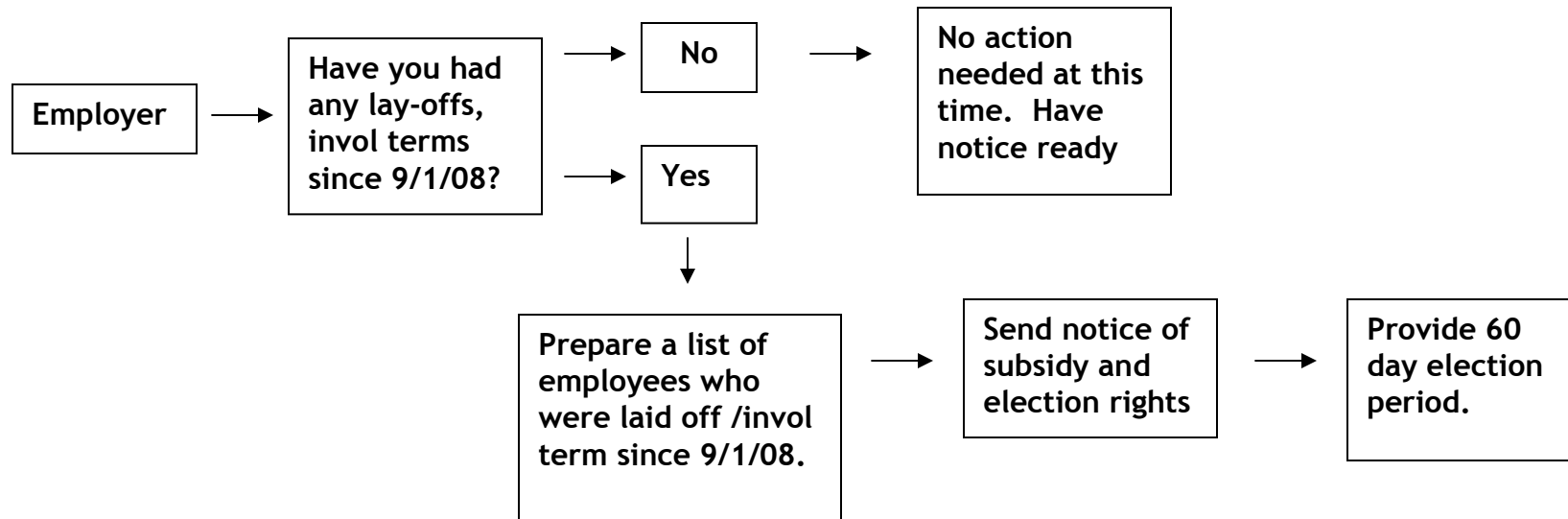
COBRA Premium Assistance

COBRA premium assistance is being provided to “assistance-eligible individuals:”

- Any qualified beneficiary (including employees, spouses, and dependent children);
- Who had a qualifying event consisting of “involuntary termination of employment” between September 1, 2008 and December 31, 2009; and
- Who is eligible for and elects COBRA coverage



COBRA Premium Assistance (continued)





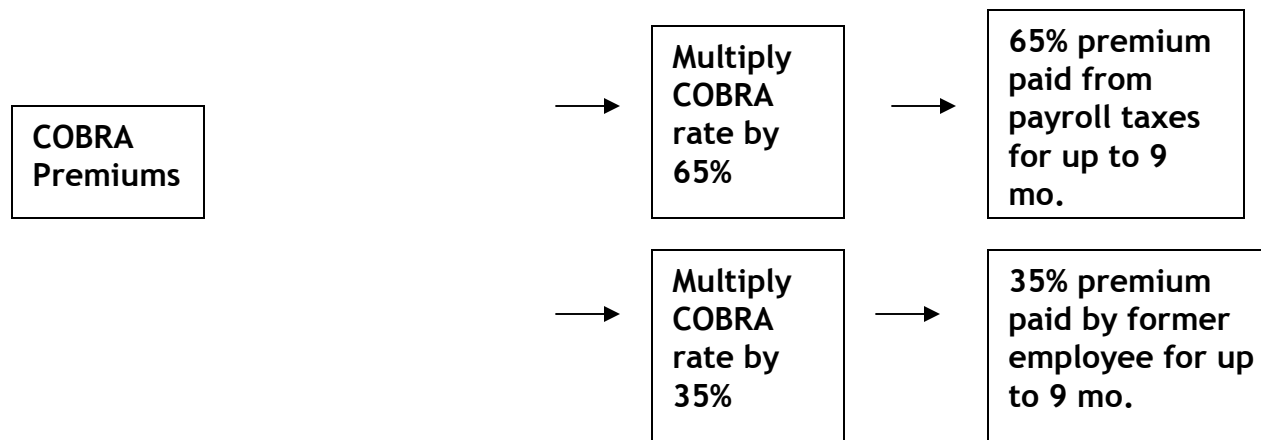
COBRA Premium Assistance (continued)

COBRA premiums are deemed to be paid-in-full for qualified beneficiaries who are assistance-eligible individuals, if the qualified beneficiary or a third party (other than the employer) pays 35% of the premium

- Begins the first billing cycle on or after February 17, 2009 (e.g., March 1, 2009 for calendar-month billing plans)
- Continues for up to 9 months for each assistance-eligible individual
- Includes federal and state COBRA continuation, and applies to group health plans maintained by all employers (including public agencies)
- Exception: Does not apply to healthcare flexible spending arrangements
- Exception: No COBRA premium assistance beginning with the first COBRA billing cycle that the individual is eligible for:
 - Medicare
 - Any other group health plan (other than coverage consisting only of dental, vision care, counseling, referral services, healthcare flexible spending arrangement, or an on-site medical facility)



COBRA Premium Assistance (continued)





COBRA Premium Assistance (continued)

Special rule for high-income individuals:

- All qualified beneficiaries—even high-income individuals—who are assistance-eligible individuals can receive the COBRA premium subsidy
- However, when the qualified beneficiary files Form 1040 at year-end, all or part of the COBRA premium subsidy received by the taxpayer, spouse, or dependent must be paid back (as additional income taxes) if the taxpayer is a high-income individual
 - Partial recapture begins when modified adjusted gross income is \$125,000 (\$250,000 for joint returns)
 - Full recapture if MAGI is \$145,000 (\$290,000 for joint returns)
- Taxpayer can avoid recapture by making a permanent election to waive the right to COBRA premium assistance



COBRA Premium Assistance (continued)

Refunds or credits for overpayment of COBRA premiums:

- Assistance-eligible individuals are entitled to a refund or credit if they pay more than 35% of the premium for up to two months
- Employer or insurance carrier decides whether to make a refund or credit
 - Refunds must be paid within 60 days of the date of the overpayment
 - Credit toward a subsequent COBRA premium must be given within 180 days after the date of the overpayment
 - If credit cannot reasonably be given within the 180 day period, then a refund must be paid within 60 days



COBRA Premium Assistance (continued)

Required notice to qualified beneficiaries:

- Employers (including public agencies) are required to notify all assistance-eligible individuals (and maybe all qualified beneficiaries with a qualifying event date between September 1, 2008 and December 31, 2009) regarding the availability of COBRA premium assistance
 - Notice may be included in the existing COBRA election package, or by using a separate document
 - Federal government will release a model notice by Thursday March 19, 2009



COBRA Premium Assistance (continued)

Appeals procedure:

- If the group health plan denies an individual's request for COBRA premium assistance, the individual may appeal the decision to the federal government
 - If the plan is maintained by a private employer, the U.S. Labor Department will handle the appeal; if the plan is maintained by a public agency, the U.S. Department of Health and Human Services will handle the appeal
 - The federal government is required to make its determination on review within 15 business days after receiving the individual's appeal
 - The federal government's determination will be made "de novo" (i.e. without regard to the decision made by the plan)
 - If the plan refuses to comply with the federal government's determination, any court involved in the lawsuit is required to grant deference to the federal government's determination



COBRA Premium Assistance (continued)

Method of reimbursement:

- COBRA premium assistance is paid-for by the federal government
- When the 35% premium payment is received from an assistance-eligible individual, one of the following organizations is entitled to reimbursement for 65% of the premium:
 - Employers maintaining group health plans subject to federal COBRA law
 - Employers maintaining group health plans not subject to federal COBRA law, under which some or all of the coverage is self-insured (i.e. not provided by insurance)
 - Insurance carriers providing insurance coverage not subject to federal COBRA law



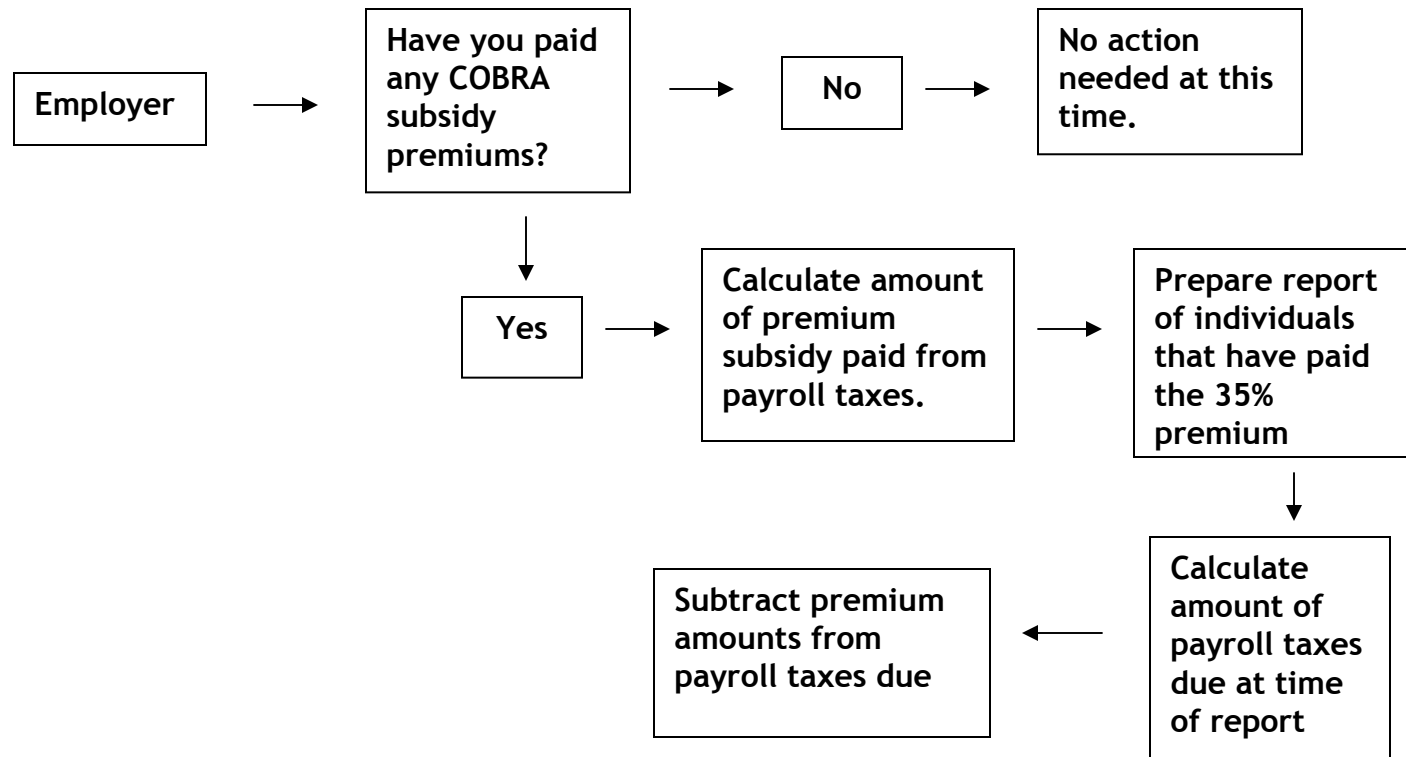
COBRA Premium Assistance (continued)

Method of reimbursement:

- Reimbursement is made out of payroll taxes (consisting of federal income tax withholding, employer's FICA taxes, and employees' FICA taxes); if payroll taxes are insufficient, then IRS will issue a refund directly to the employer or carrier
- Employers and carriers must file reports with IRS regarding reimbursements, and repay any overstated amounts



COBRA Premium Assistance (continued)





COBRA Premium Assistance (continued)

Recommendations for employers:

- Contact the COBRA administrator, payroll vendor, and insurance carriers (if applicable) to confirm who will be doing what
- Identify all qualified beneficiaries (whether or not they are assistance-eligible individuals) with qualifying events since September 1, 2008
 - It may be necessary to send the model notice to each of these qualified beneficiaries when the model notice becomes available in March 2009
- Identify all qualified beneficiaries currently receiving COBRA coverage who are assistance-eligible individuals
 - Send the model notice to each of these qualified beneficiaries when the model notice becomes available in March 2009
 - Consider notifying them (as soon as possible) that they may pay a reduced premium for the next 9 months (effective, for example, on March 1) so that they can avoid overpaying their COBRA premiums



Second-Chance COBRA Election

All qualified beneficiaries who are assistance-eligible individuals with a qualifying event since September 1, 2008, and who do not have a COBRA election in effect on February 17, 2009, must be given a second chance to elect COBRA coverage

- The second-chance COBRA election period began on February 17, 2009, and ends 60 days after the administrator sends a second-chance COBRA election notice to these qualified beneficiaries
 - The federal government is required to issue a model notice by Thursday, March 19, 2009
 - Administrators must provide the notice by Monday, April 20, 2009; this applies to all employers (including public agencies)
- Second-chance COBRA coverage begins with the first billing cycle on or after February 17, 2009 (e.g., March 1, 2009 for calendar-month-billing plans)
- For purposes of any pre-existing condition exclusion, the 63-day rule must disregard the period beginning on the date of the qualifying event and ending on the day before the second-chance COBRA coverage commences (e.g., February 28, 2009 for calendar-month billing plans)



Second-Chance COBRA Election (continued)

Recommendations for employers:

- Contact the COBRA administrator and insurance carriers (if applicable) to confirm who will be doing what
- Identify all qualified beneficiaries who are assistance-eligible individuals with qualifying events since September 1, 2008 and who do not have a COBRA election in effect on February 17, 2009
 - Send the model notice to each of these qualified beneficiaries when the model notice becomes available in March 2009
 - Consider notifying them (as soon as possible) that they may make the second-chance COBRA election now, or wait until they receive the official notice later in March



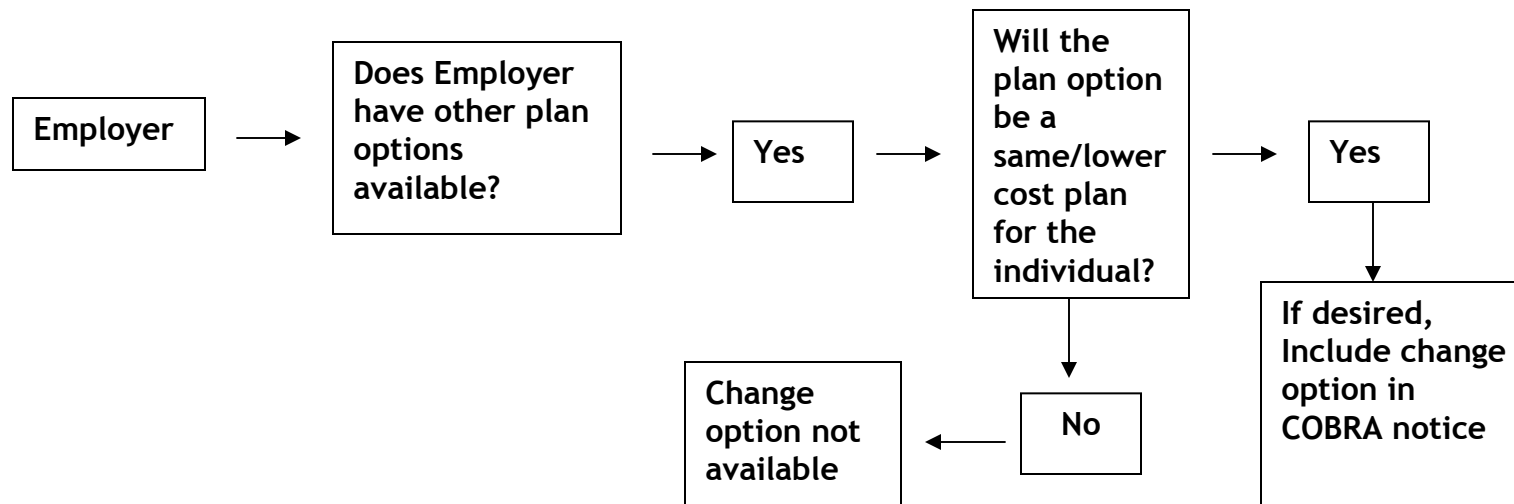
Equal- or Lower-Cost COBRA Option

Employers (including public agencies) may offer COBRA coverage to assistance eligible individuals that is equal-cost or lower-cost compared to coverage that they were enrolled in on the day before their qualifying event:

- The equal- or lower-cost COBRA option must be available to active employees, and cannot consist only of dental, vision care, counseling, referral services, healthcare flexible spending arrangements, or an on-site medical clinic
- Employers that offer this option must notify all qualified beneficiaries with qualifying events between September 1, 2008 and December 31, 2009, not just assistance-eligible individuals
- Eligible individuals may elect this option no later than 90 days after the date of the notice



Equal- or Lower-Cost COBRA Option (continued)





Equal- or Lower-Cost COBRA Option (continued)

Recommendations for employers:

- Decide whether to offer the equal-cost or lower-cost COBRA option, and obtain agreement from insurance carriers (if applicable)
- If the decision is made to offer the option:
 - Contact the COBRA administrator and insurance carriers (if applicable) to confirm who will be doing what
 - Prepare a notice, and include it along with the model notice that relates to COBRA premium assistance that will be sent to all qualified beneficiaries with a qualifying event between September 1, 2008 and December 31, 2009
 - Consider notifying affected individuals (as soon as possible) that they may elect the equal-cost or lower-cost COBRA option now, or wait until they receive the official notice later in March



TAA Health Coverage Improvement Act

Two new COBRA qualifying events may extend COBRA coverage that would otherwise expire on or after February 17, 2009:

- Termination of employment or reduction in hours of employment, of a covered employee who has a nonforfeitable right to a benefit paid by the Pension Benefit Guaranty Corporation (as a result of such termination or reduction in hours)
 - COBRA continues beyond the normal 18- or 36-month period until the covered employee's death and (for the surviving spouse and dependent children) 24 months after the date of the covered employee's death, but not beyond December 31, 2010
- Termination of employment or reduction in hours of employment, of a covered employee who is a TAA-eligible individual (referring to individuals receiving a "trade adjustment allowance" under the Trade Act of 2002, or unemployment benefits prior to receiving such an allowance)
 - COBRA continues beyond the normal 18- or 36-month period, as long as he/she is a TAA-eligible individual, but not beyond December 31, 2010



Summary

Recommendations for employers:

- Contact the COBRA administrator, payroll vendor, and insurance carriers (whichever are applicable) to confirm who will be doing what
- Identify the following groups of individuals, their contact information, and (in the case of Group 2 and Group 3) the amount of their regular COBRA premium:
 - **Group 1** - All qualified beneficiaries (whether or not they are assistance-eligible individuals) with qualifying events since September 1, 2008
 - **Group 2** - All qualified beneficiaries currently receiving COBRA coverage who are assistance-eligible individuals
 - **Group 3** - All assistance-eligible individuals with qualifying events since September 1, 2008 who do not have a COBRA election in effect on February 17, 2009



Summary (continued)

Recommendations for employers:

- Decide whether to inform all individuals in Group 2 as soon as possible that they may pay 35% of their regular COBRA premium, starting March 1, 2009 (or other date that applies to fiscal-month-billing plans)
- Decide whether to inform all individuals in Group 3 as soon as possible that they have a second chance to elect COBRA, and that they may make this election now or wait until they receive the official notice in March or April



Summary (continued)

Recommendations for employers:

- Decide whether to offer the equal-cost or lower-cost COBRA option to assistance-eligible individuals, subject to consent from insurance carriers; if this option is offered, then:
 - Prepare a notice regarding this option, and include the notice with the model notice described below
 - Consider notifying affected individuals as soon as possible that they may elect the equal-cost or lower-cost COBRA option now, or wait until they receive the official notice later in March or April
- When the federal government releases the model notice (for COBRA premium assistance and second-chance COBRA election), send the model notice to all individuals in Group 1



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Questions and Answers