

American Recovery and Reinvestment Act of 2009 (ARRA)
(signed February 17, 2009)

**Additional election opportunities for health benefits under the
Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)**

Managed by the Department of Labor (DOL), Internal Revenue Service (IRS) and the Cabinet for Health and Human Service (HHS)

- For **Involuntary Job Loss** occurring **9/1/2008** through **12/31/2009**
 - Coverage will never extend past the maximum period of COBRA coverage from the original COBRA qualifying event
 - Will begin March 1, 2009-maximum period 9 months (March thru December)
 - Involuntary Job loss not fully defined:
 - **Includes**: Demotion, involuntary termination (“involuntary termination that is at the direction of the employer”). We feel that this includes contract terminations
 - **Does Not Include**: Straight resignations, retirements, phased retirements, Opt-Overs, terms due to gross misconduct, severance agreements that agree to pay COBRA
 - **If non-contributory coverage**, does not apply-only on contributory coverage
 - Will unemployment status be the key? Not sure yet
- **Subsidy**
 - 65% COBRA premium (whatever charge) will be paid by subsidy
 - 35% paid by employee and/or qualified dependent
 - Can be paid by individual or another person-NOT EMPLOYER
 - Qualified persons cannot receive the subsidy and Health Care Tax credit payment under the Trade Assistance Act
- **All terminated employees**(including dependents) should be identified prior to Act or 2/17/09 to receive notices
 - Also applies to:
 - Those who elected COBRA during 9/1-2/17
 - Those who let COBRA lapse due to non-payment during 9/01-2/17
 - Those who declined COBRA during 9/1-2/17
 - Those whose COBRA election period includes the 2/17 date
 - Dependents added due to qualifying events after the original COBRA qualifying event can still have the COBRA coverage but are **not** eligible for the subsidy
 - Impacts: Health, Dental, Vision
 - Not: FSA, HRA (non-contributory)
- **Notices (by April 18th)**
 - **Election packet being developed**
 - Model DOL notice developed
 - KCTCS SO modifying notice where applicable

- Separate Notice of Refusal (Treasury will be developing)
 - Income thresholds for qualification
 - Single \$ 145,00
 - Joint \$290,000
 - Partial subsidy
 - Single \$125,000-\$145,00
 - Joint \$ 250,000- \$290,000
 - If receive subsidy and ineligible due to income will be recovered in 2009 income tax filing
- **Special Election Opportunity** (Optional for employers-KCTCS will not offer)
 - Special election opportunity (change coverage to equal or lesser coverage)
 - Medical only, not Dental or Vision
 - Same retroactive and future dates
 - New coverage cannot begin before March 1st
- **Receipt of Notices of Election from employees**
 - 60 days on election of coverage
 - 90 days on changing coverage
 - Month difference may create administrative problems
- **Billings**
 - Direct Bill- rates will be changed to reflect subsidy where applicable
 - Dental, vision
 - Role of DEI/Ceridian
 - They will identify recipients and send notices for KEHP health plan members
- **Loss of Eligibility**
 - Not eligible for subsidy if **eligible** (not necessarily enrolled) for:
 - Other group health coverage (not dental, vision, HRA)
 - - Spouse's plan
 - Other employer plan
 - Medicare
 - Employees paying reduced premiums must inform in writing to their plans if they become eligible for other coverage
 - Individuals must refund any overpayments through federal income taxes
 - Includes persons over the income limits
 - Penalty for failure to give notice is 110% of subsidy improperly received
 - Waived if for reasonable cause
 - Notice must be provided in a time and manner to be specified by the 3 controlling federal agencies
- **Payroll Tax Credit**
 - Subsidy contingent on proof of payment of the employee's 35% portion
 - Methods to be developed

- New reporting requirements
 - May need more clarification
- 941's (new form has been developed by IRS (on web))
 - Line 12a-amount of subsidy
 - Line 12b-number of subsidies
- 1099's at year-end
- W-2 reporting
- **HIPAA**
 - Period between job loss and February 17, 2009 not accounted for applying pre-existing condition exclusion (63 days)
- **Grievance procedure**
 - Expedited review of denials to DOL
 - Determination in 15 days
 - Process being developed
- **Federal Guidance**
 - **DOL, IRS, HHS**

Web-site for information and copies of model notices:

<http://www.dol.gov/ebsa/cobra.html>