

### What is the COBRA subsidy?

The American Recovery and Reinvestment Act (the “Act”) was signed into law by President Obama on February 17, 2009 (the “enactment date”). Among other things, the Act provides COBRA premium assistance (“COBRA subsidy”) for certain individuals and their families. The provisions of the Act are generally effective March 1, 2009.

### Am I eligible for the subsidy?

To qualify for the subsidy, you must be an Assistance Eligible Individual (AEI). To be an AEI, you must meet the following criteria:

1. **You must be a qualified beneficiary.** To be a qualified beneficiary, you must be covered under the plan the day before the qualifying event. Under COBRA, the employee, the employee’s spouse (as defined by federal law), and the employee’s dependent children (as defined by the plan), are all qualified beneficiaries if they were covered under one or more of the employer’s group health plans the day before the qualifying event.
2. Your qualifying event (the event that causes you to lose coverage) must be the employee’s **involuntary termination of employment** occurring between September 1, 2008 and December 31, 2009.  
*If you are terminated for gross misconduct, you are not eligible for the subsidy*
3. You must elect COBRA continuation coverage.
4. You are not eligible for other group health coverage or Medicare.  
*If you are currently eligible for group health coverage or Medicare, you are not eligible for the subsidy.  
If you are eligible for the subsidy and then become eligible for other group health coverage or Medicare, your right to the subsidy ends.*

### Are my spouse and dependents eligible for the subsidy?

All Assistance Eligible Individuals are eligible for the subsidy. If your spouse or dependents meet the criteria outlined above, then they are AEIs and are eligible for the subsidy.

Because qualified beneficiaries have separate election rights under COBRA, your spouse or dependents are eligible for the subsidy even if you do not elect to continue your coverage under COBRA (assuming they are AEIs as outlined above).

### If I resign or retire from my job, am I eligible to receive the subsidy?

No. The subsidy is only available to those qualified beneficiaries that are eligible for continuation coverage by virtue of the employee’s involuntary termination of employment. Because resignation and retirement are voluntary actions, you are not entitled to the subsidy. However, you may still be eligible for COBRA continuation coverage at the full premium rate.

### How long does the COBRA subsidy last?

Generally, the COBRA subsidy is available for nine months. However, if you become eligible for other group health coverage or Medicare, or if you reach the end of your COBRA coverage period, your right to the COBRA subsidy ends.

If you become eligible for other group health coverage or Medicare, you must provide timely written notice that you no longer qualify for the COBRA subsidy. Failure to do so is punishable by a penalty equal to 110 percent of the COBRA subsidy received after becoming eligible for other coverage.

### How much is the COBRA subsidy?

The Act provides for a COBRA premium subsidy equal to 65 percent of the total amount you are required to pay for your continuation coverage. In other words, if you qualify for the subsidy you are only required to pay 35 percent of the total premium due in order to continue your coverage.

If you are already receiving some other form of premium subsidy (e.g., through a severance agreement), you will continue to receive that subsidy as well as the 65 percent subsidy available under the Act. The subsidy available under the Act applies to the amount you owe after any other subsidy is applied.

**Example:** Brandy’s total COBRA premium is \$500.00 per month. Due to a severance agreement, Brandy’s former employer subsidizes 50 percent of her premium and Brandy pays the remaining \$250.00. Brandy is an AEI, so she is eligible for the 65 percent COBRA subsidy available under the Act. Brandy is now responsible for 35 percent of the \$250.00 (\$87.50).

#### **Who pays the subsidy? Will I receive a check?**

You will not receive a check or other form of direct payment. If you qualify for the subsidy, your former employer will pay the subsidy on your behalf. The federal government will reimburse your former employer for any subsidy paid on your behalf.

#### **When and how will I know if I qualify?**

If you experienced an involuntary termination of employment between September 1, 2008 and February 17, 2009, your former employer has 60 days from the enactment date to send information to you. If you experience an involuntary termination of employment between February 17, 2009 and December 31, 2009, you will receive a COBRA election notice in accordance with the standard COBRA notice rules. This election notice will include information regarding the subsidy program.

Working together, CONEXIS and your former employer will identify those individuals that qualify and send the appropriate information within the appropriate timeframe. However, it is important to note that **it is your responsibility to ensure that you are eligible to receive the subsidy**. If you do not meet the qualifications and you continue coverage under the subsidy program (for example, if you become eligible for other group health coverage), you may be subject to a penalty of 110 percent of the amount of subsidy you received.

#### **I am an AEI. When will I receive my paperwork?**

Under the Act, you must be sent any applicable notices and information within 60 days of the enactment date. CONEXIS is working with our clients to identify those individuals that qualify and we will provide the appropriate documentation to those individuals within this 60-day timeframe.

#### **What will I have to do to secure the subsidy?**

The notice you receive from CONEXIS will outline the actions you must take to participate in the subsidy program. Remember, it is your responsibility to ensure that you are eligible for the subsidy.

#### **I am already on COBRA. When will the subsidy apply to my account?**

If you qualify as an AEI and are already on COBRA, you will receive a notification explaining your rights under the subsidy program. Once CONEXIS has received confirmation of your eligibility from your former employer, we will apply the subsidy to your account. Until such time, please continue to make your COBRA payment in full to avoid cancellation.

Because of the “gap” between the effective date of the Act and the notification timeframes, it is possible that you will “overpay” for one or more months of continuation coverage. You will receive a credit for any payments you make that are in excess of the subsidized amount.

#### **I didn’t elect COBRA when I was first eligible. Can I elect COBRA now?**

If you otherwise meet the criteria to be an AEI but you did not elect COBRA coverage during your initial 60-day election period, you are eligible to elect COBRA coverage during a second 60-day election period available under the Act. If you elect COBRA coverage through this second 60-day election period, your coverage will begin with the first period of coverage following the enactment date (for most plans, this date is March 1, 2009).

Although your COBRA coverage begins with the first period of coverage following the enactment date, your COBRA eligibility period is measured from the original qualifying event date (i.e., the date of the involuntary termination of employment).

**Example:** Amy was laid off from her job on September 15, 2008. Amy did not elect COBRA continuation coverage when it was originally offered to her.

Amy must be sent a notice of her right to a second election period and the COBRA subsidy within 60 days following the enactment date. If Amy elects coverage, she will be eligible for the subsidy program and prospective coverage beginning on March 1, 2009. Amy is not allowed to elect coverage going back to October 1, 2008 (the date she lost coverage due to her qualifying event).

Amy's COBRA coverage period will expire on March 31, 2010 (assuming she meets all applicable requirements to maintain such coverage). The COBRA subsidy will expire for Amy on November 30, 2009.

**A Special Note Regarding HIPAA:** The Act stipulates that a gap in coverage that occurs between the date of the qualifying event (the involuntary termination of employment) and the first period of coverage under the Act shall be disregarded for purposes of determining the 63-day period referred to in the Health Insurance Portability and Accountability Act (HIPAA).

#### **I elected COBRA coverage when I was first eligible but I lost my coverage due to non-payment of premiums. Can I elect COBRA now?**

If you otherwise meet the criteria to be an AEI but you lost your COBRA coverage prior to the enactment date, you are eligible to elect COBRA coverage during a second 60-day election period available under the Act. If you elect COBRA coverage through this second 60-day election period, your coverage will begin with the first period of coverage following the enactment date (for most plans, this date is March 1, 2009).

Although your COBRA coverage begins with the first period of coverage following the enactment date, your COBRA eligibility period is measured from the original qualifying event date (i.e., the date of the involuntary termination of employment).

**Example:** Mary was involuntarily terminated on October 15, 2008. Mary elected COBRA continuation coverage and her coverage began on November 1, 2008. Mary paid her premiums for November and December but did not pay for January. Mary's coverage was cancelled due to non-payment effective December 31, 2008.

Mary must be sent a notice of her right to a second election period and the COBRA subsidy within 60 days following the enactment date. If Mary elects coverage, she will be eligible for the subsidy program and prospective coverage beginning on March 1, 2009. Mary is not allowed to elect coverage going back to January 1, 2009 (the date she lost coverage due to non-payment).

Mary's COBRA coverage period will expire on April 30, 2010 (assuming she meets all applicable requirements to maintain such coverage). The COBRA subsidy will expire for Mary on November 30, 2009.

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**Will I be taxed on the subsidy I receive?**

You may be subject to a “recapture” (i.e., repayment via income taxes) of the subsidy you receive if you exceed certain income levels:

- If your modified adjusted gross income is less than \$125,000 (\$250,000 for joint return filers), you are eligible for the full subsidy amount and your income tax liability is not increased in any way.
- If your modified adjusted gross income is between \$125,000 and \$145,000 (between \$250,000 and \$290,000 for joint return filers), your income tax liability will be increased by a percentage of the total COBRA subsidy you receive.
- If your modified adjusted gross income is greater than \$145,000 (\$290,000 for joint return filers), your income tax liability will be increased by the total amount of COBRA subsidy you receive.

To avoid any potential tax issues, you may waive your right to the subsidy. However, any such waiver is permanent and cannot be withdrawn at a later date.