

Corporate Strategies Inc
COBRA changes under the Economic Stimulus Bill
Employer Checklist – Employers who comply with COBRA
March 2009

In the absence of formal documents and guidance from the DOL and IRS, here is an action plan we have drafted.

ACTION: Identify all those qualified beneficiaries who are or were eligible for COBRA by virtue of a qualifying event that was an involuntary termination of employment occurring between September 1, 2008, and February 16, 2009, who have not elected COBRA as of the Enactment Date or who elected but lost coverage.

This includes spouses and children who were covered at the time of the qualifying event but are not covered now. They will be entitled to a special election period.

NOTE: This also includes those whose election period has not yet ended as of the Enactment Date. Such qualified beneficiaries whose election period has yet to expire may choose to take advantage of the special election period, but they will receive adjusted coverage dates if they do not make their election within their initial election period. Plan administrators must work with their COBRA administrators to tweak systems to accommodate this.

ACTION: Schedule time with your COBRA administrator to identify and assess the system changes needed to send notices to those entitled to a special election. Revise election notices if you choose not to wait on model notices. In doing so, you must determine whether or not you wish to simply revise your current notices or prepare a supplement to be used with your current notices.

ACTION: Draft a Subsidy waiver form for highly compensated employees and an "attestation of eligibility" form for all individuals who will be entitled to the premium assistance.

ACTION: Begin to develop a credit or tracking procedure for those eligible's, who pay more than 35 percent during the first two months. For example, if employers choose to apply the excess as a credit, and it is not or will not be used within 180 days, a refund process must be established.

ACTION: Develop a procedure calculating the new premium structure, calculating the amount of Subsidy due in the form of the payroll offset and filing a claim for the Subsidy. Additional guidance will be issued in the future regarding this process, but prudent plan administrators will begin to think through the process now.

ACTION: Find out from your payroll administrator whether they can help you track and maintain the payroll information necessary to fulfill your notice obligations (amount of payroll taxes offset by the Subsidy, etc.) See our Legislative Brief for guidance.

ACTION: Implement a procedure for sending out notices that the premium assistance is about to be exhausted. Employers should notify AEIs in advance of their COBRA premium increase after the premium assistance is exhausted. Such notice would be provided, for example, upon exhaustion of the maximum nine month premium assistance period, or if the AEI becomes eligible for other coverage under a group health plan or Medicare.

There, that was easy! Well, not exactly. If you are presently doing your own COBRA compliance, we strongly recommend you contract with a third party. We're available to help. Give us a call.