



# Illinois Insurance Facts

Illinois Department of Insurance

## Federal Stimulus – Premium Reduction for Group Continuation Coverage

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Note: This information was developed to provide consumers with general information and guidance about insurance coverages and laws. It is not intended to provide a formal, definitive description or interpretation of Department policy. For specific Department policy on any issue, regulated entities (insurance industry) and interested parties should contact the Department.

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act (ARRA), commonly called the Stimulus Plan. ARRA provides a subsidy that may reduce by 65% the cost of COBRA and other state group continuation coverage for workers who lose their jobs.

### What Are Group Coverage Continuation Laws?

Group coverage continuation laws require employers to offer employees who lose group coverage the opportunity to continue their employer-based health insurance.

- COBRA is the federal law that applies to employer groups with 20 or more full-time employees on more than 50% of the business days in the prior calendar year, and to group plans offered by state and local governments.
- State continuation law (“mini-COBRA”) applies to fully insured group plans of any size, including employers with 19 or fewer employees.

If you are uncertain about which law(s) applies to your group plan, contact your employer or the U.S. Department of Labor at 1-866-444-3272.

**NOTE:** This fact sheet focuses on the premium reductions provided under ARRA. For more detailed information about your rights under federal and state continuation laws, including recent changes to the State mini-COBRA law made by Public Act 096-0013 (signed into law by the Governor on June 18, 2009), please refer to the Department of Insurance consumer fact sheets titled “[Health Insurance Continuation Rights – COBRA](#)” and “[Health Insurance Continuation Rights – Illinois Law](#).”

### When an Employee Loses Group Coverage and Elects Continuation, Who Pays the Premium?

Normally it is the employee who lost group coverage, not the employer, who must pay the entire health insurance premium.

### Who is Eligible for Premium Reductions Under ARRA?

Individuals who lose group health coverage because of an involuntary termination (“former employees”) between September 1, 2008 and December 31, 2009 may be eligible for a 65% reduction of their COBRA or mini-COBRA premiums for up to 9 months.

This premium reduction is not available to workers whose modified adjusted gross income in the year they receive the premium reduction exceeds \$145,000 for individuals and \$290,000 for couples filing joint tax returns. The premium reduction will be phased out for individuals whose modified adjusted gross income is between \$125,000 and \$145,000 and for couples between \$250,000 and

\$290,000. If an individual takes advantage of the premium reduction and in the same year exceeds the income limit, he or she must repay the amount of the premium reduction. We encourage individuals and couples to confirm eligibility with a tax specialist.

## How Do Individuals Sign Up for the Premium Reduction?

Eligible individuals will receive a notice with general information about the premium reduction under ARRA and a form to request the premium reduction.

1. For group plans subject to federal COBRA requirements, written notice must be provided by the **former employer**.

- Former employees who lose group health coverage between **February 17, 2009** and **December 31, 2009** will receive notification and enrollment forms allowing them to continue their group coverage and to request the premium reduction.
- Former employees who lost group coverage due to an involuntary termination between **September 1, 2008** and **February 16, 2009** and who currently have continuation coverage should have been notified about the availability of the premium reduction by **April 18, 2009**.
- Former employees who lost group coverage due to an involuntary termination between **September 1, 2008** and **February 16, 2009** and who did not continue their group coverage will get a second chance to continue their coverage and receive the premium reduction (see below). The notice in connection with this second election period should have been provided by **April 18, 2009**.

2. For group plans subject only to state mini-COBRA requirements (*i.e.*, employers with 19 or fewer employees), written notice must be provided by **the insurer** providing coverage under the group plan.

- Former employees who lose group health coverage between **June 18, 2009** and **December 31, 2009** will receive written notice allowing them to request the premium reduction. This notice must be provided within 10 days of the involuntary termination.
- Former employees who lost group coverage due to an involuntary termination between **September 1, 2008** and **June 18, 2009** and who currently have continuation coverage must be notified about the availability of the premium reduction for such coverage by **July 2, 2009**.

**NOTE:** ARRA required insurers to provide notice about the premium reduction to this group of former employees, either by April 18, 2009 (for former employees who lost group coverage between September 1, 2008 and February 16, 2009) or shortly after the employee's involuntary termination (for former employees who lost group coverage on or after February 17, 2009). In the event that insurers failed or refused to comply with the notice requirements under ARRA, Public Act 096-0013 provides a second deadline of July 2, 2009, to ensure that all eligible Illinois residents receive the required notice and have an opportunity to request the premium reduction for their continuation coverage.

- Former employees who lost group coverage due to an involuntary termination between **September 1, 2008** and **June 18, 2009** and who did not continue their group coverage will get a second chance to continue their coverage and receive the premium reduction (see below). The notice in connection with this second election period must be provided by **July 18, 2009**.

If you have questions about the notices described above, you can contact your former employer or the insurer providing coverage under your group health plan. For plans subject to federal COBRA

requirements, you may also contact the federal Department of Labor at 1-866-444-3272 or visit the agency's website (<http://www.dol.gov/ebsa/COBRA.html>). For plans subject only to state mini-COBRA requirements, you may contact the Illinois Department of Insurance ("Department") at 1-877-527-9431 or visit our website at <http://insurance.illinois.gov>.

#### **MODEL NOTICES:**

- The Department of Labor (DOL) has published Model Notices for employers to use when providing the notifications required by ARRA. Employers can download copies of these Model Notices from the DOL website at <http://www.dol.gov/ebsa/COBRAmodeInotice.html>.
- The Department of Insurance has created a state-specific Model Notice for use by insurers providing coverage subject only to state mini-COBRA requirements. These model notices are available on the Department's website at <http://www.idfpr.com/doi/pressRelease/pr09/ModelNotices.asp>.

#### **When Will Eligible Individuals First Receive the Premium Reduction?**

The premium reduction will be applied to premiums for the first period of continuation coverage beginning on or after February 17, 2009. The premium reduction is prospective (*i.e.*, the new law does not provide premium reductions for group continuation coverage prior to the first period of coverage on or after February 17, 2009).

**NOTE:** Individuals who have already paid premiums for a period of coverage to which the premium reduction applies are entitled to a refund or credit from their employer or insurer for the amount of the premium reduction.

#### **How will the Premium Reduction be Applied to Group Continuation Coverage?**

Former employees who qualify for the premium reduction will only be required to pay 35% of the group coverage continuation premium. The remaining 65% will initially be paid by:

- the former employer, if the employer had 20 or more employees on more than 50% of the business days in the prior calendar year and is subject to federal COBRA provisions; or
- the insurer providing coverage under the group health plan, for those employers with fewer than 20 employees subject solely to mini-COBRA requirements.

The former employer or the insurer will then be reimbursed by the federal government through a reduction in payroll taxes.

#### **Who is Eligible for a Second Opportunity to Continue Group Coverage and Receive the Premium Reduction?**

ARRA requires a "second election period" so that former employees who lost group coverage prior to ARRA's enactment and who initially chose not to continue their coverage, or chose to continue coverage and later stopped paying premiums, are given a second chance to continue their group coverage and receive the premium reduction. Individuals whose former employer is subject to federal COBRA provisions (*i.e.*, employers with 20 or more employees) and who lost group coverage due to an involuntary termination that took place between September 1, 2008 and February 16, 2009, should have received notice of this second election period from their former employer by **April 18, 2009**. Former employees have 60 days after receiving this notice to elect continuation coverage and request the premium reduction.

After the enactment of ARRA, Illinois passed a law ([Public Act 096-0013](#)) providing a similar second election period for Illinois employees of small businesses (*i.e.*, employers with 19 or fewer employees). Former employees who lost group coverage due to an involuntary termination that took place after **September 1, 2008**, and who do not have continuation coverage in effect as of

**June 18, 2009**, are eligible for this second election period. These individuals must receive notice from the insurer providing group coverage by **July 18, 2009**, and will have 60 days after receiving notice to elect continuation coverage and request the premium reduction.

Under both laws, coverage for eligible individuals who enroll during the second election period will:

- Begin with the first period of continuation coverage on or after February 17, 2009.
- End on the date coverage would have ended if the individual had elected group continuation coverage when he or she first became eligible. For example, if an employee was involuntarily terminated September 1, 2008, did not elect COBRA continuation coverage after the layoff, but now chooses to elect federal COBRA, his or her federal COBRA coverage ends on March 1, 2010 – 18 months from when he or she first became eligible for COBRA, not 18 months from an election during the second election period.

When providing coverage to former employees who elect continuation coverage during the second election period, employers or insurers may not apply pre-existing condition coverage limitations based on a gap in coverage between the layoff and commencement of the continuation coverage.

### **What if an Employer or Insurer Refuses to Provide the Premium Reduction?**

ARRA provides for expedited reviews if an employer or insurer denies an individual's application for the premium reduction. Once the denied individual submits an appeal for review, the Department of Labor or the Center for Medicare and Medicaid Services (CMS) will make an eligibility determination within 15 business days.

DOL will handle appeals related to private sector employers subject to federal COBRA provisions (*i.e.*, employers with 20 or more employees). For more information or to submit an appeal, please visit the DOL's website at <http://www.dol.gov/ebsa/COBRA/main.html> or call a DOL benefits advisor toll-free at (866) 444-3272.

CMS will handle appeals related to state mini-COBRA plans, as well as appeals for Federal, State, or local governmental employees. For more information or to submit an appeal, please contact the CMS-sponsored help desk toll-free at (866) 400-6689 or via e-mail at [continuationcoverage@maximus.com](mailto:continuationcoverage@maximus.com).

### **Will Individuals be Eligible for the Premium Reduction for as Long as They Are Eligible for Group Continuation Coverage?**

The premium reduction will not necessarily last as long as your group continuation coverage. For example, former employees typically qualify for up to 18 months of federal COBRA coverage. The premium reduction lasts only up to 9 months. Therefore, an eligible individual who chooses to pay for 18 months of COBRA coverage after March 1, 2009 would still have to pay 9 months of unsubsidized premiums.

### **Can an Individual Lose Eligibility for the Premium Reduction?**

You can lose eligibility for the premium reduction in two ways. First, as mentioned above, the premium reduction lasts no longer than 9 months. Second, you become ineligible for the premium reduction when you become eligible for new group health coverage or Medicare.

- Beneficiaries must notify their former employer when they become eligible for new group health coverage.
- Beneficiaries who willfully neglect to notify their former employer of their eligibility for a new group health plan must repay 110% of the amount of the premium reduction to the federal

government. No such penalty shall be imposed if the beneficiary demonstrates “reasonable cause” for the failure.

**NOTE:** Eligibility rules for the premium reduction differ from rules governing eligibility for COBRA coverage generally. Eligibility for COBRA continuation coverage ends only when a beneficiary enrolls in new group coverage or Medicare. However, simply being eligible for new group health coverage disqualifies an individual from receiving the premium reduction.

### **Does the Premium Reduction Apply to Group Continuation Coverage other than COBRA?**

The premium reduction under ARRA applies to both federal COBRA continuation coverage and to comparable state continuation coverage known as “mini-COBRA” (215 ILCS 5/367e). ARRA does not apply to the state’s spousal continuation law or dependent continuation law. For more information about these laws, please refer to the Department of Insurance consumer fact sheet titled “[Health Insurance Continuation Rights – Illinois Law](#).”

### **Does ARRA Extend the Length of Available Group Continuation Coverage?**

ARRA itself does not change the length of time that group continuation coverage must be provided to eligible individuals: COBRA typically provides for up to 18 months of coverage, while mini-COBRA had provided for up to 9 months of coverage.

The period of coverage required under the state mini-COBRA law, however, was recently increased from 9 months to 12 months by Public Act 096-0013. All group plans subject to the law that are issued, delivered, amended or renewed after June 18, 2009, must provide for up to 12 months of continuation coverage. If an individual is currently receiving mini-COBRA coverage and the employer’s policy is renewed after June 18, 2009, the individual would be entitled to the additional 3 months of coverage, regardless of the date the individual first elected mini-COBRA coverage.

### **Does the Premium Reduction Affect Eligibility for other Income-Based Government Programs?**

The amount of the premium reduction will not be counted as income in determining eligibility for, or assistance provided under, any other federal or state program.

### **Does ARRA Affect Individuals Who Qualify for COBRA Due to Eligibility for Trade Adjustment Assistance or Eligibility for Benefits from the Pension Benefit Guaranty Corporation?**

ARRA provides significant extensions of COBRA coverage periods for individuals who receive benefits directly from the Pension Benefit Guaranty Corporation or are eligible for Trade Adjustment Assistance. If you have additional questions about these extensions, contact the federal Department of Labor at 1-866-444-3272 or visit the agency’s website (<http://www.dol.gov/ebsa/COBRA.html>).

### **For More Information**

Call the Department of Insurance Consumer Services Section at (866) 445-5364 or our Office of Consumer Health Insurance at (877) 527-9431 or visit our website at <http://insurance.illinois.gov>