



424 West O'Brien Drive
Julale Center, Suite #200
Hagatna, Guam 96910
Telephone: 671-472-3610
Facsimile: 671-472-3615
www.netcarelifeandhealth.com

LEGISLATIVE UPDATE AMERICAN RECOVERY AND REINVESTMENT ACT CHANGES TO COBRA RULES IN STIMULUS PACKAGE

Effective March 1, 2009

As part of the American Recovery and Reinvestment Act which was signed on February 17, 2009 the government will subsidize (on a limited basis) up to 65% of the cost of COBRA premiums for eligible workers who are involuntarily terminated for other than cause. This subsidy is being implemented as an employer obligation to pay 65% of the COBRA premium (this includes the 2% allowable surcharge for administrative expense) for eligible individuals who have elected COBRA or Continuation coverage effective September 1, 2008 as well as those individuals eligible for COBRA or Continuation coverage who declined at the time. The employer will then be reimbursed for these COBRA premiums through payroll tax credits and/or refunds.

The following are highlights of the new rules:

- **Who is Eligible?**
 - Individuals who have been involuntarily terminated from employment on and after September 1, 2008;
 - Who is not designated a "high income" individual based on certain income tests.
- **Who Must Comply?**
 - Employers subject to Federal COBRA legislation;
 - Small employers subject to State Continuation legislation
- **When is this Effective?**
 - Rules are effective immediately.
 - The subsidy begins for coverage starting March 1, 2009;
 - There is a 60 day transition period where employers can still collect 100% of the premium and "make up" the subsidy in future premiums, if necessary.
- **How long is the Subsidy effective?**
 - 9 months
 - Will end earlier if the individual becomes eligible for other coverage.
- **Are Written Notifications Required?**
 - Yes, All individuals qualifying for COBRA due to involuntary termination as of September 1, 2008 must be notified in writing of the subsidy;
 - Specific information must be included in the notification;
 - Department of Labor is to issue a model notice within 30 days.
 - All Notifications must be made no later than April 18, 2009.

- **If an Individual previously declined coverage can he/she now elect coverage?**
 - Yes, the individual can now elect coverage;
 - There will be a 60 day special election period beginning on the date the notification is provided;
 - Coverage will begin as of March 1, 2009 (not retroactive to the original qualifying date);
 - The individual will be eligible for no more than 18 months of Continuation beginning as of the date of the original qualifying event.

- **Can an Individual Opt to Change Coverage?**
 - Yes, the individual can elect to change his/her current election to a lower cost plan during the special enrollment period.
 - Once that election is made, it can not be changed.

- **What Type of Reporting will be Required?**
 - In order to obtain the payroll tax credit the employer must substantiate entitlement to reimbursement by providing certain specific reports
 - Attestation of involuntary termination of employees for whom reimbursement is claimed;
 - Report of payroll taxes offset for the reporting period and an estimate for next period;
 - Specific information regarding each covered individual;

Updated information is expected within the coming weeks, and we will keep you abreast of these developments.