

# SECOVA™ Help Book

“ARRA - COBRA Subsidy  
Administrative Compliance Strategy”

March 26, 2009





## COBRA Provisions in the American Recovery and Reinvestment Act of 2009

The **American Recovery and Reinvestment Act of 2009 (ARRA)**, better known as the economic Stimulus bill, provides a subsidy for COBRA coverage as a relief for workers who have lost or will lose their jobs during the period from September 1, 2008 through December 31, 2009. A series of complicated temporary COBRA mandates became effective when President Obama signed the Stimulus Bill into law on Tuesday, February 17, 2009.

The COBRA subsidy is expected to cost the government nearly \$25 billion and provide nearly 7 million unemployed workers and their families with health insurance. Under the ARRA, the federal government will subsidize 65 percent of the premiums for continuation of healthcare coverage under COBRA for eligible individuals for up to 9 months. Employers will be reimbursed for the 65 percent subsidy by taking a credit on their payroll taxes.

ARRA gives very little time to implement new administrative procedures and to meet the new notice requirements. Clarifications are being released daily by the Department of Labor, Treasury and Health and Human Services. Secova will be administering COBRA and advising clients of pending deadlines, required notices that must be provided to eligible individuals, and various recordkeeping and administrative requirements. If further information is needed, Secova's consultants are also available to assist you in reviewing the implications of the law.

### Read on to discover:

- **Highlights Of The New COBRA Mandate**
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- **Scenario Of COBRA Premium Subsidy**

## Highlights of the New COBRA Mandate

The latest in a series of recent changes to federal group Health Plan requirements, require that employers and other group health plan sponsors, insurers and administrators act immediately to comply with a series of special temporary mandates applicable to "assistance eligible individuals," directed towards the new COBRA Amendment under the ARRA. The changes require group health plans to reduce COBRA premiums for those COBRA enrollees that qualify as assistance eligible individuals beginning March 1, 2009.

- The maximum COBRA premium that a group health plan can charge an assistance eligible individual for COBRA coverage is limited to 35 percent of the otherwise applicable COBRA premium for a period of up to 9 months beginning with the first coverage period after February 17, 2009.
- Group health plans must notify assistance eligible individuals of the availability of the COBRA premium subsidy and other special COBRA rights granted under the Stimulus Bill. Group health plan sponsors and administrators will want to provide required



- notification promptly, as a delay in notification will extend the period that assistance eligible individuals have to elect COBRA coverage.
- Group health plans must offer assistance eligible individuals who previously did not elect COBRA coverage before February 17, 2009 a second chance to enroll in COBRA coverage within the 60-day period beginning on the date the group health plan provides the required notice of the Stimulus Bill COBRA rights. COBRA coverage for assistance eligible individuals making these second chance elections must begin with the first period of coverage beginning after February 16, 2009 (March 1, 2009 for most plans).
- Group health plans offering participants different coverage options must allow assistance eligible individuals the opportunity for up to 90 days to change their coverage election to elect a lower cost coverage option. (*to be determined by the client's request*)

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## Secova's Compliance Strategy

Secova will be administering COBRA and advising clients of pending deadlines, required notices that must be provided to eligible individuals, and various recordkeeping and administrative requirements. This section serves as Secova's action plan and will outline the (5) five steps that will be taken by Secova or should be taken by your COBRA Administrator to ensure compliance to this newly elected COBRA subsidy.

### Step 1: Determine Participant Eligibility

The COBRA clients will need to provide Secova with a list of names and addresses of employees who were involuntarily terminated on or after September 1, 2008, through December 31, 2009, who either did not elect COBRA or, if they elected COBRA, dropped the coverage by not paying the premium. This information should be provided to Secova ASAP.

The purpose is to have the clients' identify the involuntarily terminated employees so the AEI's can be advised of their premium subsidy. To achieve this Secova is taking the following actions:

- Secova will check incoming files for terminations. All census imports must be coded with involuntary term indicators.
- The client will determine if special enrollment options will be offered. The client will then provide Secova with the available options in a written document.
- Secova will develop a procedure for informing an individual who sought COBRA coverage as an AEI that he or she does not meet the AEI requirements. Specifications come from the Department of Labor.



## Description of groups eligible for this COBRA subsidy:

Under COBRA, the definition of qualified beneficiary (QB's) includes the covered employee, the covered employee's spouse, and the covered employee's dependent children. In a situation that the covered employee does not chose COBRA, a covered spouse or covered child of the involuntarily terminated covered employee will qualify. ***A domestic partner or dependent will not qualify.***

Any qualified beneficiary who at any time during the period of September 1, 2008 and December 31, 2009: (A) is eligible for COBRA continuation coverage; (B) elects such coverage and (C) originally lost coverage due to involuntary termination occurring during such period or as illustrated below:

**Group 1:** Qualified beneficiaries involuntarily terminated that elected to receive COBRA continuation coverage on or after September 1, 2008, but before February 17, 2009. This group will be notified by Secova regarding their rights and obligations to receive the subsidy.

**Group 2:** Qualified beneficiaries involuntarily terminated that did not elect to receive COBRA continuation coverage on or after September 1, 2008, but before February 17, 2009. Secova will extend a second opportunity to opt for COBRA through their subsidy election notice.

**Group 3:** Qualified beneficiaries involuntarily terminated between February 18, 2009 and December 31, 2009 that will have the option of the 9 month subsidized COBRA premiums. Secova will notify these QB's regarding their rights and obligations to receive the subsidized premiums.

## Income limits:

If an individual's modified adjusted gross income for the tax year in which the premium assistance is received exceeds \$145,000 (or \$290,000 for joint filers), then the amount of the premium reduction during the tax year must be repaid. For taxpayers with adjusted gross income between \$125,000 and \$145,000 (or \$250,000 and \$290,000 for joint filers), the amount of the premium reduction that must be repaid is reduced proportionately. Individuals may permanently waive the right to premium reduction but may not later obtain the premium reduction if their adjusted gross incomes end up below the limits. The participant may wish to consult their tax preparer or contact the IRS at [www.irs.gov](http://www.irs.gov) for further information.

**Secova's Note:** *If the individual is denied the COBRA subsidy they have the right to appeal the denial to the appropriate government agency. The appeal is decided within 15 business days after receipt of individual's application for review.*



Termination of eligibility:

The subsidy terminates with the first month beginning on or after the earlier of:

- The date which is 9 months after the first day for which the subsidy applies;
- The end of the maximum continuation period for the Qualified Beneficiary under the COBRA rules or the relevant state or federal law; or
- The date that the assistance eligible individual becomes eligible for Medicare or health coverage under another group health plan ( including for example a group health plan maintained by a new employer of the individual or a plan maintained by the employer of the individual's spouse).

Under law the assistance eligible individual must notify the plan administrator in writing of any ineligible status or pay a penalty of 110% of the premium reduction after termination of eligibility, unless the failure to do so is due to "reasonable cause."

## **Step 2: Eligible Participant Notification**

Secova will create the ARRA COBRA notices based on the model notices from the Department of Labor, Treasury and the Department of Health and Human Services. Below is a list of specific information required to be included in the revised COBRA Election Notice or in a separate document accompanying the required COBRA Election Notice.

### **Secova's Notice Requirements Will Include:**

1. The forms necessary to establish the individual's eligibility for the COBRA premium subsidy.
2. The name, address, and telephone number of the plan or other party where the individual can receive information relating to the COBRA premium subsidy.
3. A description of the extended election period.
4. Information on the individuals responsibility to notify the plan in the event that he or she is no longer eligible for the COBRA subsidy (i.e. eligible for coverage under another group health plan including Medicare, unless an exception applies) and the penalty (110% of subsidy received) associated with failure to notify plan of ineligibility.
5. A description, displayed in a prominent manner, of the individual's right to the COBRA premium subsidy and the conditions surrounding that subsidy.
6. If the employer has elected the option of permitting the individual to enroll in a plan that is different to the one he/she was covered under at the time of the original qualifying event, a description of such option.

**Secova's Note:** *Secova will include the additional information by modifying their existing COBRA Election Notice and/or by including a separate document sent with the required COBRA*



*Election Notice. This notification will serve as standard COBRA notice verbiage and not be customized.*

### **Step 3: Secova Outlines Compliance Timeline**

**September 1, 2008, through December 31, 2009** - Individuals who lose health plan coverage because of involuntary termination during this time period are eligible for COBRA subsidy.

**February 17, 2009** – ARRA enactment date; many compliance dates are calculated from the enactment date.

**March 1, 2009** – The first day of the first calendar month after the enactment date and the most common date when the subsidy will take effect for eligible individuals terminated prior to February 17, 2009.

**March 19, 2009** - The date by which the DOL must issue model notices for use in notifying eligible individuals of the right to elect COBRA continuation coverage and eligibility for subsidy.

**March and April 2009** – The months during which an eligible individual who pays full premium amount for COBRA continuation coverage must be provided with a credit for the amount of overpayment.

**April 18, 2009** – The date by which the plan administrator must notify individuals who became entitled to elect COBRA on or after Sept. 1, 2008 and before February 17, 2009, of the extended election period and to provide these individuals with required information about eligibility for the premium subsidy and the extended election period.

**September 30, 2010** – The last day of subsidized COBRA coverage due to an individual (these would be individuals who were involuntarily terminated on December 31, 2009).

### **Step 4: COBRA Premium Administration**

The ARRA treats assistance eligible individuals who pay 35 percent of their COBRA premium as having paid the full amount. The premium reduction (65 percent of the full premium) is reimbursable to the employer, insurer or health plan as a credit against certain employment taxes.

If the credit amount is greater than the taxes due, the Secretary of the Treasury will directly reimburse the employer, insurer or plan for the excess. Secova will be sending reimbursements or crediting accounts unless the money has been reconciled and sent back to the client previously. Additionally, Secova will provide clients with reporting of who is receiving the subsidy, usual certification and premium reports on a monthly basis.



Secova will be administering the subsidized COBRA premiums in accordance with the requirements under the COBRA provisions:

1. Tracking premium payments.
  - a. The Secova system currently and will continue to post invoices of full premiums. When the payment is posted it will be broken out into by 35% and 65% for our client's records.
  - b. The payments posted to the system will be immediately followed by a match transaction of the 65% payment. That match transaction will also be posted to the system to reflect the subsidy.
2. Reimbursing or crediting excess premium payments that were made for March and April 2009.
3. The Secova system is set to track anyone that is eligible for the subsidy. Then at time of COBRA enrollment their eligibility will be confirmed (this is the employee sending in a signed COBRA Premium Subsidy Election Form), which will allow the subsidy to be applied for the 9 month period.
4. Invoices/Coupon books
  - a. All invoices & coupon books supplied by Secova will reflect the employees premium responsibility

**Secova's Note:** *The reimbursement/credit portion of the bill only affects payments from March 1, 2009 going forward. The re-election would be for individuals terminated involuntarily from Sept. 1, 2008 going forward.*

## **Step 5: Customized Client Reports**

Secova's COBRA clients will be required to file reports related to the subsidy. Although the specific types of reports and deadlines will be determined in the future by the Treasury Department, three types of reports required are specified in the ARRA. First, the client must attest that each employee receiving the subsidy was involuntarily terminated. Second, the client must file accounting data to report the payroll tax credit taken for the reporting period and the estimated credits to be taken during the following reporting period. Third, the employer must file a report of all covered employees, the amount of subsidy treated as payroll tax credit for each employee and a designation as to whether the subsidy is for coverage of one individual or two or more individuals.

Secova will provide clients with the necessary monthly reports:

- Customized client monthly reporting demonstrating AEI's subsidized premiums received
- Report to show the employer's portion of subsidized premiums for all AEI's
- Subsidized COBRA certification and premium report, broken out by plan and participant
- Ongoing monthly COBRA certification and premium report for all active COBRA participants



The government will want an accounting of subsidies to determine if any taxpayers are ineligible for the subsidy due to income. Treasury has the authority to require plan sponsors to report subsidy amounts to the IRS on W-2 or 1099 forms. This is to be provided by client.

**Secova's Note:** *Secova is focused on client fulfillment and is dedicated to providing compliant solutions to all our clients. We are thoroughly implementing the new requirements set forth by the ARRA. Although the American Recovery and Reinvestment Act has been signed into law, there are details and guidance forthcoming. Secova will advise its clients as additional information becomes available.*

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## Scenario of the COBRA Subsidy

John was involuntary terminated effective March 1, 2009 and elects coverage under the ARRA effective March 1, 2009. John's full amount for his COBRA premium is \$800 a month. John's previous employer's severance package agreed to subsidize 20% or \$160 of the premium leaving John to pay the remaining \$640. Under the new act, John is eligible to receive the additional COBRA subsidy of 65%, because he is an AEI. John is now responsible for only 35% of \$640 premium which is \$224. The former employer is qualified to receive federal reimbursement of the 65% of the \$640 or \$416 through payroll tax credits.

Because the employer agreed to subsidize 20% of the COBRA premium during separation, the employer is not entitled to reimbursement for the \$160 in the employer subsidized coverage. Secova recommends an employer should not only consider these provisions when determining the amount to pay for the cost of COBRA coverage at the date of the qualifying event, but also to review the severance package and any communication that mentions the employee continuation of benefits and right to the subsidy.

If John becomes eligible for other group coverage or Medicare, or reaches the end of his COBRA nine month COBRA coverage, his subsidy ends. It is John's responsibility to provide written notice to the group health plan that he no longer qualifies for the COBRA subsidy. Failure to comply would require him to pay 110 percent of the improperly paid subsidy amount.

**Secova's Note:** *The timing and procedure that a beneficiary must respond to notify their eligibility of other group health coverage or Medicare has not been released. Secova will be checking with the Department of Labor periodically for updates.*



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## About Secova

Secova delivers HR and benefits management services focused on helping clients control and drive down the costs of their health and welfare benefits offerings through three essential steps – Audit, Implement and Manage. While many outsourcing solutions modify pre-set vendor/service programs, Secova offers a distinctive, flexible approach. Through the company's value Sourcing model, each solution can be shaped based on individual client goals and strategies. Secova determines the optimum mix of processes, technologies and service locations to help clients stay competitive in today's marketplace.

Secova's clients, who employ almost 2.5 million employees, range from mid-sized business to Fortune 500 corporations. With our focus on helping clients reduce costs and streamline HR processes, to date Secova has saved its clients well over 10% in their healthcare costs through its audit services alone. For more information, visit the company's website at [www.secova.com](http://www.secova.com).

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