State of California—Health and Human Services Agency
Department of Health Care Services

DAVID MAXWELL-JOLLY
Director

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June 18, 2009

To: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY PICKLE COORDINATORS

Letter No: 09-30

SUBJECT: PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR UNEMPLOYED WORKERS AND COBRA PREMIUM REDUCTION EXEMPTION

Title III, Sections 3000 -3001, of the American Recovery and Reinvestment Act (ARRA) of 2009 provides for Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation coverage premium reduction for qualified individuals and their families for periods of coverage beginning on or after February 17, 2009. A premium assistance subsidy is paid in the form of a tax credit and/or payments to the group health plan, employer or other entity that pays the COBRA premium.

About COBRA Premium Assistance:

The entity, group health plan or employer pays the COBRA premium and is reimbursed for 65 percent of the premium from the federal government as a tax credit or payment only if the individual pays the remaining 35 percent of his/her premium to the group health plan or employer. Qualified individuals, thereby, get a 65 percent premium reduction in their COBRA premiums that will also be exempt for Medi-Cal purposes.

To Qualify for the COBRA Premium Assistance Reduction:

Regular: To qualify for the premium reduction, the individuals must have been involuntarily terminated from covered employment between September 1, 2008 and

December 31, 2009, must elect COBRA coverage, and be eligible for COBRA continuation coverage at any time between September 1, 2008 and December 31, 2009. There is no premium reduction for those who are eligible for other group health coverage (such as a spouse's plan) or Medicare.

Second Chance: Individuals who were involuntarily terminated after September 1, 2008, but prior to February 17, 2009, who did not elect COBRA, or who did elect it but are no longer enrolled, will receive a notice from the plan or employer to inform them that they have a second chance to elect COBRA continuation coverage and will be able to receive the premium assistance if they otherwise qualify. Individuals denied eligibility for COBRA premium reduction will have the opportunity for expedited review by the United States Department of Labor with a decision in 15 business days.

Premium Assistance Reduction Period:

There is no premium reduction for premiums paid for periods of coverage prior to February 17, 2009. A period of coverage is a month or shorter period for which the plan charges a COBRA premium. The premium assistance starts on March 1, 2009, for plans that charge for COBRA coverage on a calendar month basis. The premium assistance for an individual ends 1) upon eligibility for other group coverage, 2) upon becoming eligible for Medicare, 3) after 9 months of the assistance, or 4) when the maximum period of COBRA coverage ends, whichever occurs first.

Medi-Cal Premium Assistance Reduction Exemption:

Section 3001(a) (6) of the ARRA states that the premium reduction shall not be considered as "income or resources in determining eligibility for assistance or benefits provided under any other public benefit provided under Federal law or the law of any state or political subdivision". Therefore, under ARRA, the 65 percent premium reduction shall be considered exempt income and property.

Premium Assistance Reduction Reimbursement:

Some individuals may have paid COBRA premiums after February 17, 2009, but before they are found eligible for the assistance reduction, and thus may be directly reimbursed for the overpaid premiums. When an individual is reimbursed under ARRA for COBRA payments that he or she made (i.e., up to 65 percent of the premium), the amount of the reimbursement is exempt as income and property. (See examples below.)

Medi-Cal Income Calculation:

The COBRA premium reduction exemption is separate from the other health insurance premium deduction since the Medi-Cal beneficiary is not actually paying the amount of the reduction (see example below). The COBRA premium reduction exemption prevents an adverse impact to the individual's Medi-Cal eligibility as a result of a reduced other health coverage (OHC) premium deduction.

COBRA Premium Assistance Reduction Exemption Examples (shown here without regard to any other exemptions or deductions):

Previous Medically Needy Income Calculation for One Person	New Medically Needy Income Calculation for One Person
$1000.00 Gross Nonexempt Income	$1000.00 Gross Income
	- 65.00 COBRA Reduction Exemption
	= $935 Gross Nonexempt Income
- $100.00 OHC Deduction (COBRA Premium)	- $35.00 OHC Deduction (COBRA Premium)
= $900.00 Net Nonexempt Income	= $900.00 Net Nonexempt Income
- $600.00 Maintenance Need Level	- $600.00 Maintenance Need Level
$300.00 Share of Cost	$300.00 Share of Cost*

**Without the COBRA Premium Assistance Reduction Exemption, this individual's Share of Cost would be $365.*

Previous Aged and Disabled Federal Poverty Level Program Income Calculation for One Person	New Aged and Disabled Federal Poverty Level Program Income Calculation for One Person
$1200.00 Gross Nonexempt Income	$1200.00 Gross Income
	- 65.00 COBRA Reduction Exemption
	= $1135 Gross Nonexempt Income
- $100.00 OHC Deduction	- $35.00 OHC Deduction
= $1100.00 Net Nonexempt Income	= $1100.00 Net Nonexempt Income
- $1133.00 Income Limit	- $1133.00 Income Limit
Eligible	Eligible*

**Without the COBRA Premium Assistance Reduction Exemption, this individual would have net nonexempt income of $1165 and would be ineligible for the A&D FPL program and would have a $565 Share Of Cost under the Medically Needy program instead.*

Verification:

The Medi-Cal applicant/beneficiary, spouse or representative will need to provide verification of the beginning date of the premium assistance and the amount of assistance for which they are eligible.

Notification:

Plan administrators and employers must notify individuals of their right to apply for the COBRA premium assistance reduction. Information is also being provided to individuals by the Employment Development Department and the Internal Revenue Services (see enclosures).

The Department of Health Care Services (DHCS) will provide an outreach notice that counties can provide to individuals who have lost their jobs and who may be eligible for COBRA continuation coverage and the premium reduction. This notice will be developed in coordination with Managed Risk Medical Insurance Board (MRMIB) and Employment Development Department and will be provided by DHCS through an All County Welfare Directors Letter as soon as possible.

Medi-Cal Health Insurance Premium Payment (HIPP) Program:

In addition to the COBRA premium assistance, some Medi-Cal individuals may be eligible to have their COBRA premiums paid in full by the Medi-Cal HIPP program. To be eligible for the HIPP program, a Medi-Cal beneficiary must have a high-cost medical condition; not be enrolled in a Managed Care Plan, County Medical Services Program or Medicare and must have a current health coverage policy, a COBRA continuation policy, a COBRA conversion policy or coverage through another source. Insurance coverage through the Major Risk Medical Insurance Program administered by the MRMIB, or Guaranteed Issue Program regulated by the Department of Managed Health Care and the California Department of Insurance are not eligible for premium assistance through the HIPP program. For more information, individuals may call the HIPP program at (866) 298-8443.

Also, uninsured children of unemployed workers who have lost their jobs are potentially eligible for coverage through the Healthy Families Program administered by MRMIB, if they meet the income and eligibility requirements. Those families can get more information at 1-800-880-5305 or at www.healthyfamilies.ca.gov.

Additional Information:

For additional information about, or to apply for the COBRA continuation coverage and premium assistance, individuals may call the Employee Benefits Security Administration at (866) 444-3272 or go to the Department of Labor's Web site at www.dol.gov/COBRA. There are also two fact sheets enclosed with this letter, one from the Department of Labor and the other from the Internal Revenue Services for your additional information.

If you have any questions regarding the COBRA premium reduction, please contact Mr. Craig Yagi at (916) 445-4062, Mr. Harold Higgins at (916) 552-9522 or Ms. Tammy Kaylor at (916) 552-9496.

Original Signed by

Vivian Auble, Chief
Medi-Cal Eligibility Division

Enclosures

Fact Sheet

U. S. Department of Labor
Employee Benefits Security Administration
February 26, 2009

COBRA PREMIUM REDUCTION

The American Recovery and Reinvestment Act of 2009 (ARRA) provides for premium reductions and additional election opportunities for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA. Eligible individuals pay only 35 percent of their COBRA premiums and the remaining 65 percent is reimbursed to the coverage provider through a tax credit. The premium reduction applies to periods of health coverage beginning on or after February 17, 2009 and lasts for up to nine months.

COBRA

COBRA gives workers who lose their jobs, and thus their health benefits, the right to purchase group health coverage provided by the plan under certain circumstances.

If the employer continues to offer a group health plan, the employee and his/her family can retain their group health coverage for up to 18 months by paying group rates. The COBRA premium may be higher than what the individual was paying while employed but generally the cost is lower than that for private, individual health insurance coverage.

The plan administrator must notify affected employees of their right to elect COBRA. The employee and his/her family each have 60 days to elect the COBRA coverage, otherwise they lose all rights to COBRA benefits.

Note: COBRA generally does not apply to plans sponsored by employers with less than 20 employees. Many States have similar requirements for small plans providing benefits through an insurance company. The premium reduction is available for plans covered by these State laws.

Changes Regarding COBRA Continuation Coverage Under ARRA:

Premium Reduction: The premium reduction for COBRA continuation coverage is available to "assistance eligible individuals".

An "assistance eligible individual" is the employee or a member of his/her family who:

- is eligible for COBRA continuation coverage at any time between September 1, 2008 and December 31, 2009;
- elects COBRA coverage; and
- is eligible for COBRA as a result of the employee's involuntary termination between September 1, 2008 and December 31, 2009.

Those who are eligible for other group health coverage (such as a spouse's plan) or Medicare are not eligible for the premium reduction. There is no premium reduction for premiums paid for periods of coverage prior to February 17, 2009.

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.

The premium reduction applies to periods of coverage beginning on or after February 17, 2009. A period of coverage is a month or shorter period for which the plan charges a COBRA premium. The premium reduction starts on March 1, 2009 for plans that charge for COBRA coverage on a calendar month basis. The premium reduction for an individual ends upon eligibility for other group coverage (or Medicare), after 9 months of the reduction, or when the maximum period of COBRA coverage ends, whichever occurs first. Individuals paying reduced COBRA premiums must inform their plans if they become eligible for coverage under another group health plan or Medicare.

Special COBRA Election Opportunity: Individuals involuntarily terminated from September 1, 2008 through February 16, 2009 who did not elect COBRA when it was first offered OR who did elect COBRA, but are no longer enrolled (for example because they were unable to continue paying the premium) have a new election opportunity. This election period begins on February 17, 2009 and ends 60 days after the plan provides the required notice. This special election period does not extend the period of COBRA continuation coverage beyond the original maximum period (generally 18 months from the employee's involuntary termination). COBRA coverage elected in this special election period begins with the first period of coverage beginning on or after February 17, 2009. This special election period opportunity does not apply to coverage sponsored by employers with less than 20 employees that is subject to State law.

Notice: Plan administrators must provide notice about the premium reduction to individuals who have a COBRA qualifying event during the period from September 1, 2008 through December 31, 2009. Plan administrators may provide notices separately or along with notices they provide following a COBRA qualifying event. This notice must go to all individuals, whether they have COBRA coverage or not, who had a qualifying event from September 1, 2008 through December 31, 2009.

Individuals eligible for the special COBRA election period described above also must receive a notice informing them of this opportunity. This notice must be provided within 60 days following February 17, 2009.

Expedited Review of Denials of Premium Reduction: Individuals who are denied treatment as assistance eligible individuals and thus are denied eligibility for the premium reduction (whether by their plan, employer or insurer) may request an expedited review of the denial by the U.S. Department of Labor. The Department must make a determination within 15 business days of receipt of a completed request for review. The Department is currently developing a process and an official application form that will be required to be completed for appeals.

Switching Benefit Options: If an employer offers additional coverage options to active employees, the employer may (but is not required to) allow assistance eligible individuals to switch the coverage options they had when they became eligible for COBRA. To retain eligibility for the ARRA premium reduction, the different coverage must have the same or lower premiums as the individual's original coverage. The different coverage can not be coverage that provides only dental, vision, a

health flexible spending account, or coverage for treatment that is furnished in an on-site facility maintained by the employer.

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. If you think that your income may exceed the amounts above, consult your tax preparer or contact the IRS at www.irs.gov

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate formats upon request: Voice phone: (202) 693-8664; TTY: 1-202-501-3911. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

[redacted]

COBRA Health Insurance Continuation Premium Subsidy

The American Recovery and Reinvestment Act of 2009 establishes an employer-provided subsidy for employees who involuntarily lose their jobs. The IRS issued a news release Feb. 26 outlining information for employers. Individuals who qualify for the COBRA subsidy premium should see below for more information.

Information for Employers

Do you have questions on how to administer the COBRA continuation premium subsidy to former employees? These questions and answers may help.

Employers should use the updated Form 941, Employer's Quarterly Federal Tax Return, to report their COBRA premium assistance payments.

The Form 941 instructions explain how to complete lines 12a and 12b, which address the COBRA premium assistance payments.

Information for Employees or Former Employees

Workers who have lost their jobs may qualify for a 65 percent subsidy for COBRA continuation premiums for themselves and their families for up to nine months.

Eligible workers will have to pay 35 percent of the premium to their former employers.

To qualify, a worker must have been involuntarily separated between Sept. 1, 2008, and Dec. 31, 2009. Workers who lost their jobs between Sept. 1, 2008, and enactment, but failed to initially elect COBRA because it was unaffordable, get an additional 60 days to elect COBRA and receive the subsidy.

This subsidy phases out for individuals whose modified adjusted gross income exceeds $125,000, or $250,000 for those filing joint returns. Taxpayers with modified adjusted gross income exceeding $145,000, or $290,000 for those filing joint returns, do not qualify for the subsidy.

More information on the COBRA subsidy is available from the U.S. Department of Labor.

Return to IRS Information on the American Recovery and Reinvestment Act of 2009.

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