

## Addendum to the *Administrative Handbook*

**This information may not be the most current. Please visit [fchp.org](http://fchp.org) for the most up-to-date changes to COBRA under the American Recovery and Reinvestment Act of 2009 (ARRA).**

### **COBRA subsidy provision for employer groups subject to federal COBRA (20 or more employees)**

Under the new law, beginning February 17, 2009, a federal subsidy of COBRA health insurance premiums will be provided to involuntarily terminated employees. This will apply to employees who were **involuntarily terminated from September 1, 2008 through May 31, 2010**, and are otherwise eligible for COBRA. These **"assistance eligible individuals" (AEIs)** will be eligible for a federal subsidy of 65% of their COBRA premiums, and will only be responsible for the remaining 35% of the premium. Spouses and dependents are also eligible and may independently receive a subsidy. The U.S. Treasury Department has indicated that the 65% of the premium should be calculated off of the actual amount the employer charges the individual to purchase continuation coverage. **The AEI will be entitled to the subsidy for up to 15 months, when the maximum period of COBRA coverage ends, or until becoming eligible for coverage under another employer's plan or for Medicare, whichever occurs first.** No one is eligible for the subsidy **before** the date of enactment (Feb. 17, 2009).

Employers are expected to cover the cost of the subsidy for AEIs and then recover the subsidized amount of the premium by withholding the payment as a credit against federal payroll taxes. The credit is earned as soon as the AEI's payment is received. The subsidy an employer provides will take the form of a refundable payroll tax credit on employer's employment tax returns (Form 941). The employer is permitted to offset any payroll tax liabilities, including employee income tax withholdings, employee FICA tax withholding and employer FICA tax obligation. If the subsidy exceeds the payroll tax liabilities, employer will receive a tax refund. Form 941 has been amended by the IRS to take into account this credit.

### **COBRA subsidy provision for small groups subject to state Mini-COBRA law (2 to 19 eligible employees)**

Effective February 17, 2009, the American Recovery and Reinvestment Act of 2009 (ARRA) requires employers and FCHP to comply with a new federal subsidy of COBRA health insurance premiums to employees who are **involuntarily terminated**. These **"assistance eligible individuals" (AEIs)** are eligible for a federal subsidy of 65% of the cost of COBRA coverage.

Regardless of group size, employers are required to notify all individuals of the subsidy who have had a COBRA qualified event on or after September 1, 2008, and have not been provided an election notice (or were provided an election notice on or after February 17, 2009, that did not include the additional information required by the ARRA) within 60 days of the enactment date (February 17, 2009).

*What are the qualifications for subsidy eligibility?*

- The AEI can be an employee or a member of his/her family (if a dependent, they must be recognized as a dependent under federal tax law, e.g., domestic partners and same-sex spouses are not eligible)
- **The employee is involuntarily terminated between September 1, 2008, and May 31, 2010.** Those terminated for "gross misconduct" are not eligible
- The AEI elects mini-COBRA coverage within 60 days of receipt of notice from the employer of their right to elect coverage
- The AEI is not eligible for coverage under another group health plan or Medicare
- The AEI's gross income does not exceed the ARRA's approved income level for the subsidy

*Who pays the 65% COBRA subsidy?*

Fallon Community Health Plan is responsible for paying 65% of COBRA premiums for involuntarily terminated employees that belong to employer groups subject to the state "mini-COBRA" law (2 to 19 eligible employees). FCHP will be reimbursed quarterly when it files for the federal payroll tax credit.

*How long will the AEI receive the subsidy?*

Involuntarily terminated **employees are eligible to receive the subsidy for up to 15 months**, when the maximum period of COBRA coverage ends, or until they are eligible for coverage under another group health plan, or Medicare, whichever occurs first.

*Once notified of a qualifying event, what kind of documentation do I need to supply FCHP with?*

- A list of AEIs, including their date of involuntary termination
- The COBRA health insurance premium amount you, the employer, have been charging the AEIs (including the administrative fee of up to 2%)
- A copy of all subsidy waivers for those AEIs who choose to waive their subsidy rights
- Attestations for all involuntary terminated AEIs, along with other supporting documentation as necessary based on IRS guidelines.  
(See RD-7 at [www.irs.gov/newsroom/article/0,,id=205376,00.html](http://www.irs.gov/newsroom/article/0,,id=205376,00.html))

The waiver and attestation form, along with other important COBRA information, can be found on our Web site at [fchp.org/Extranet/Employers/cobra-subsidy.htm](http://fchp.org/Extranet/Employers/cobra-subsidy.htm). We ask that you return the requested information and completed forms in the manner that you currently submit enrollment/transaction forms to FCHP. Please do this in a timely manner that corresponds with COBRA guidelines.