

Unexpected Benefits...



2009 ARRA Legislation

Simplifying and understanding it's impact on employers

EXCEED

What is ARRA?

- **American Recovery & Reinvestment Act of 2009**
 - Signed by the President on February 17th, 2009
 - Impacts Individuals, Employers & Health Plans
- **Main Purpose of Legislation**
 - Maintain and create jobs
 - Build and repair infrastructure
 - Infuse cash into cash strapped state programs
 - Encourage flow of money into the economy through tax cuts and other incentives for individuals and organizations



Key Provisions

- **It affects all employers providing group coverage!**
 - Including private and governmental employers subject to federal COBRA rules
 - small employers subject to the 40+ state mini-COBRA laws currently in effect
- **Expanded COBRA regulations**
- **Commuter Benefit Plan Enhancements**



Key Provisions continued...

- **Employment Tax Changes**
 - Work Opportunity Tax Credit (WOTC)
 - New Earned Income Tax Credit (EITC)
 - Make Work Pay Tax Credit (MWP)
- **Revitalized CHIP Subsidy Program**
- **Significant new requirements to HIPAA**
 - BAA changes will be required
 - Expanded reach and more penalties



... and more we're not covering

- **Executive Compensation Limits**
- **Immigration Related Provisions**
- **Unemployment Benefit Provisions**
 - Provides significant funds to states to expand the amount of unemployment benefits, eligible circumstances qualifying for benefits and the duration of unemployment benefits
Increases to state unemployment insurance
 - Current unemployment % and increase in benefits will likely result in employers being pushed into the highest unemployment tax brackets



Revised COBRA Requirements

- **Definition: Assistance Eligible Individual (AEI) is someone who:**
 - Has/had an initial qualifying event for involuntary employment termination for reasons other than gross misconduct
 - Has/had a modified Adjusted Gross Income (AGI) of less than
 - \$125,000, if single*
 - \$250,000, if married filing jointly*

**Modified AGI greater than above has other provisions and/or requirements*



Revised COBRA Requirements

- **New “second chance” election period**
 - Only for AEs who were involuntarily unemployed between September 1, 2008 and February 17th, 2009
 - **Not included:** voluntary qualifying events such as divorce, retirement, or Medicare eligibility
 - They now have **60 days** from renewed notice to apply for continuation
 - Coverage resumes February 17th – NOT their original QE date
 - it does NOT extend normal COBRA duration of 18 months
 - Any gap in coverage will not count against HIPAA creditable coverage determination
 - Is for AEs who never enrolled in COBRA and AEs who enrolled, but terminated coverage prior to the enactment of ARRA



Revised COBRA Requirements

- **65% COBRA Subsidy for up to 9 months**
 - for AEs who have/had an initial qualifying event on or after September 1, 2008, and on or before December 31, 2009
 - Applies to monthly premiums paid after February 17, 2009.
 - There is no provision for a "refund" of prior premium payments.
 - The subsidy is available to all coverage connected with that qualifying event (Medical, Rx, Dental, Vision, EAP plans OK)
 - except Health FSAs
 - AEI does not get a cash subsidy

**MAGI above threshold receive pro-rata portion of subsidy*



Revised COBRA Requirements

- **Subsidy Duration**

- Does not extend the normal maximum coverage period of 18 months
- Subsidy stops when becoming eligible for other group medical coverage (including Medicare)
 - Participants are subject to 110% penalty of any subsidy that was provided when they were not eligible



Revised COBRA Requirements

- **Calculating the Subsidy**
 - \$1,000 employer's monthly insurance premium cost
 - \$650 is 65% subsidy amount
 - \$1,000 old monthly COBRA premium*
 - \$350 = new participant monthly premium

**Haven't yet seen any guidance on what happens to the 2% employer surcharge*



Revised COBRA Requirements

- **Payroll Tax Offset for Subsidy**
 - Employer makes up the \$650 difference (65% subsidy) when paying the carrier.
 - Employer reduces its payroll taxes* and reports these offsets on a revised Form 941
 - If total credits exceeds employer's tax liability, then the employer gets a cash refund in the same way as an overpayment of payroll taxes.

**Non-profits pay payroll taxes*



Revised COBRA Requirements

- **Calculating the Subsidy w/ a Severance**
 - amount is determined based on the COBRA premium that the AEI is actually required to pay.
 - For example, employer subsidizes 40% of COBRA premium, the AEI is required to pay 35% of the remaining 60% of the premium (not 35% of the entire premium).
 - \$1,000 employer's monthly insurance premium cost
 - \$400 is ER share and \$600 is participant share
 - \$390 is 65% subsidy amount ($\$600 \times 65\%$)
 - \$210 = new participant monthly premium
 - Employers seek reimbursement for the government subsidy ($65\% \times \text{ee's } 60\% \text{ contribution}$).



Revised COBRA Requirements

- **Lower Cost Plan Enrollment Option**
 - AEI's can change to another medical plan offered by the employer if the premium is lower than their current COBRA premium.
 - Excludes Dental, Vision, EAP, Healthcare FSAs and HRAs
 - Option period is 90 days from notice
 - Applicable for second election rights and those with qualifying events that occur later in 2009.



Commuter Expense Benefit Plans

- **Parking – no change**
 - \$230 maximum deferral per month
- **Bicycling – no change**
 - \$20 maximum deferral per month
- **Mass–transit / van pool**
 - \$230 maximum deferral per month (from \$120) effective March 1, 2009
 - FICA tax offset
 - 100 ee's x \$110 increase x 7.625% = \$10,000+ annual savings!



Employer Challenges

- **DOL hasn't issued model COBRA notices (goal 30 days)**
- **Treasury hasn't fixed tax forms (goal 60 days)**
- **TPA's fees for COBRA and payroll services**
- **Payroll systems & processes need to be modified**
- **Clarification is needed on several things**
 - Involuntary termination isn't clearly defined for things like reduction in hours (FT to PT)
 - CHIPRA's effect on HIPAA and required notices
- **Increased healthcare costs (renewals) due to increased utilization of COBRA benefits**



Employers Need to Get Ready!

- **COBRA Changes take effect immediately!**
 - COBRA Notices are required to be mailed ASAP
 - COBRA “second chance” notices
 - COBRA Subsidy notices
- **March 1 – Notify employees of mass–transit increase**
- **Payroll departments need to get reporting**
 - Amount of COBRA premium assistance payments
 - Number of subsidy recipients and coverage elections
 - Overpayments (March/April) for direct refunds of participants and/or credits for future coverage
- **April 1 – CHIPRA premium assistance decisions and special enrollment rights notices**



What are we doing to help?

- **COBRA**
 - Invitation to Webinars
 - COBRA Vendor status checks
- **Transit Communications**
- **Future eAlerts on CHIRPA, HIPAA and more...**

