

## **EBSA response to AHIP recommendations**

### **AHIP recommendation**

- The premium subsidy is available for up to nine months. We recommend adding to the introduction paragraph of the CMS and EBSA forms a statement that the premium subsidy may be available for up to nine months.

### **EBSA response:**

This language is already included in the introductory paragraph of the application.

### **AHIP recommendation**

- The CMS and EBSA forms include a mailing address and facsimile number as options for where the appeal may be filed. We recommend that both forms also include an e-mail address or website as an option for individuals to electronically file an appeal (with an appropriate process for individuals to electronically “sign” the appeal).

### **EBSA response:**

Electronic filing is available and, in fact, encouraged by EBSA. Language reflecting this is included in the “applying for review” paragraph of the application.

### **AHIP recommendation**

- The CMS form uses the term “premium assistance” and the EBSA form uses the term “premium reduction” to describe the subsidy. We recommend that both forms use the term “premium assistance” because the term is more understandable to the average reader.

### **EBSA response:**

EBSA has consistently used “premium reduction” because it most accurately reflects how individuals will be treated under ARRA. It is our belief that using either “subsidy” or “premium assistance” suggests that individuals will directly receive the tax credit. Using “premium reduction” is intended to make clear that fact that individuals need only pay the 35%. All of EBSA’s fact sheets, flyers, publications, FAQs and the model notices consistently use the term “premium reduction.”

### **AHIP recommendation**

- The CMS form includes a statement in the first paragraph, in bold type, that the agency will be unable to review the appeal if complete information is not submitted. The EBSA form includes this statement in plain type in the middle of the fifth paragraph. We recommend that the EBSA form be modified to move this statement up to the first paragraph and place it in bold type to clearly notify the individual of the need to provide complete information in filing an appeal.

### **EBSA response:**

EBSA has purposefully deemphasized this fact as individuals who file applications, complete or not, will be contacted via phone and mail. If additional information is needed to make an application “complete” it will be collected at that time.

### **AHIP recommendation**

- The EBSA form indicates that separate forms must be completed by each family member whose plan information is not identical (e.g., the individuals are covered by different continuation coverage options offered by the employer). We recommend that the form be modified to permit the individual to list the policy information of his or her spouse and each dependent child so that multiple forms are not necessary.

### **EBSA response:**

EBSA does not believe this is a structural problem with the application process. EBSA’s electronic system used to process applications would be delayed by several weeks, and would result in increased costs to facilitate this change. It is important to note that separate applications are only required in situations where the information is not the same.

### **AHIP recommendation**

- The CMS form includes a question (Number 11) asking if the individual earned more than \$125,000 for the year (or \$250,000 for married couples filing a joint return). The premium subsidy is not available for individuals who earn over a certain amount. We recommend that the same question be added to the EBSA form to highlight that higher income individuals are not entitled to a subsidy and should not file an appeal.

### **EBSA response:**

This is an incorrect interpretation of ARRA’s provisions. Under ARRA, individuals who exceed the income limits are still entitled to pay the reduced premiums (however, they must repay the amount as a tax on their personal tax return). As a result, this would not be a basis for employers

to deny applications for the premium reduction.

**AHIP recommendation**

- o The second page of the EBSA form includes a “checklist” for individuals to determine if they might be eligible for a premium subsidy. We believe that all of the conditions listed must be met in order to qualify for a premium subsidy and therefore the “or” after the third bulleted condition should be replaced with an “and.”

**EBSA response:**

EBSA agrees with this suggestion and will make the change.