



## ***Application to the U. S. Department of Labor for Expedited Review of Denial of COBRA Premium Reduction***



**GENERAL INFORMATION:** If you or a family member has lost employment, the American Recovery and Reinvestment Act of 2009 (ARRA) may make it possible for you to keep your employment-related health coverage. The American Recovery and Reinvestment Act of 2009 (ARRA), as amended, provides for premium reductions for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA. The premium assistance is also available for continuation coverage under certain State laws. "Assistance Eligible Individuals" pay only 35 percent of their COBRA premiums; the remaining 65 percent is reimbursed to the coverage provider through a tax credit. The premium reduction applies to periods of health coverage that began on or after February 17, 2009 and lasts for up to 15 months.

To be considered an "Assistance Eligible Individual" and receive reduced premiums you:

- ◆ MUST have a continuation coverage election opportunity (qualifying event)\* related to an involuntary termination of employment that occurred at any time from September 1, 2008 through May 31, 2010;
- ◆ MUST elect the coverage (within the appropriate timeframes);
- ◆ MUST NOT be eligible for Medicare; AND
- ◆ MUST NOT be eligible for coverage under any other group health plan, such as a plan sponsored by a successor employer or a spouse's employer.

\*Individuals who lost coverage because of a qualifying event that was a reduction of hours that occurred any time from September 1, 2008 through May 31, 2010 may be eligible for the premium reduction if the employee is then involuntarily terminated on or after March 2, 2010 and no later than May 31, 2010. The premium assistance for these individuals begins with the first period of coverage following the employee's termination (that occurs on or after March 2, 2010 through May 31, 2010). These individuals are also provided a new election opportunity if they did not elect (or elected and discontinued) COBRA. [A reduction of hours qualifying event occurs when the employee and his/her family lose coverage because the employee's hours were reduced or the employee is no longer working enough hours required by the plan to maintain the group health coverage although they are still employed. ]

The applicant (person requesting review of a denial of premium assistance) may either be the former employee or a member of the employee's family who is eligible for COBRA continuation coverage or the COBRA premium assistance through an employment-based health plan. The employee and his/her family members may each elect to continue health coverage under COBRA, request the premium assistance, and request a review of a denial of premium assistance.

If you believe you are eligible for COBRA continuation coverage and for this premium reduction through a private sector health plan sponsored by an employer generally with at least 20 employees, but your request for these benefits or the reduced premium has been denied, you may apply to the U.S. Department of Labor to review the denial. If your benefits were provided by the Federal government (under Temporary Continuation Coverage (TCC) of the FEHBP), a State or local governmental plan (such as a public school, a public college or university or a police or fire department), or if it is provided pursuant to State insurance law, you should direct your request for review to the Department of Health and Human Services or access their website at [www.ContinuationCoverage.net](http://www.ContinuationCoverage.net).

**APPLYING FOR REVIEW:** Answer all of the questions on the application to the best of your knowledge and ability. If you don't know the answer to a question you may check the box marked "Unsure or N/A." (N/A stands for "not applicable.") The red asterisk (\*) denotes required information. Please include copies of any documents that you think would help the Department in its review of your application, examples of which are listed in the attached instructions. Provide your complete contact information (daytime phone number, an alternate phone number, and an email address, if available) so that the person reviewing your application can contact you with any questions or if additional information is needed. The Department of Labor will not review your denial until you submit a properly completed application form. A separate application(s) must be completed for any family member whose plan information is not identical to the information you provide. Keep a copy of the application(s) submitted for your records. *NOTE: In the course of its review, the Department may need to share information on this application with your employer or plan administrator.*

You are encouraged to complete your application online at [www.dol.gov/COBRA](http://www.dol.gov/COBRA) or, you can fax or mail this completed application, along with your attachments, to:

Fax to: U.S. Department of Labor, EBSA  
Attn: COBRA Appeals  
Fax number: 202-693-8849

Mail to: U.S. Department of Labor, EBSA  
Attn: COBRA Appeals  
PO Box 78038  
Washington, DC 20013-9038

**FOR ASSISTANCE:** If you have questions on how to complete this form or about eligibility for COBRA or the COBRA premium reduction, please see our website at [www.dol.gov/COBRA](http://www.dol.gov/COBRA). You may also call a DOL Benefits Advisor toll-free at 1-866-444-3272. Benefits Advisors can assist you with questions, but cannot complete or take your application for review by phone.

**Attention:** Before you get started, do a quick check on your eligibility for the COBRA premium reduction.

If -

- ✓ you were covered by the employer's group health plan on the last day of the employee's employment\*;
- ✓ there is an ongoing health plan responsible for providing COBRA continuation coverage;
- ✓ your qualifying event was the employee's involuntary\*\*job termination that occurred during the period beginning September 1, 2008 through May 31, 2010 (including a reduction of hours qualifying event in this time period followed by an involuntary termination on or after March 2, 2010 through May 31, 2010) and not divorce, legal separation, entitlement to Medicare, loss of dependent status, or death of the covered employee, then you may be eligible for the COBRA premium reduction.

**NOTE:** If your coverage is provided by a plan sponsored by the Federal government, or a state or local government (such as public schools, public colleges and universities, or police or fire departments), you must file your application for review with HHS. See [www.ContinuationCoverage.net](http://www.ContinuationCoverage.net)

If you have questions on how to complete this application or about eligibility for COBRA or the COBRA premium reduction, please see our website at [www.dol.gov/COBRA](http://www.dol.gov/COBRA). You may also call a DOL Benefits Advisor toll-free at 1-866-444-3272. If you feel that you have been inappropriately denied the COBRA premium reduction, complete the attached application.

\* Note: newborns, adopted children or children placed for adoption added through special enrollment count as if they were on the plan on the last day of the employee's employment.

\*\* For help in determining what job loss situations are involuntary terminations, see the IRS guidance at [www.irs.gov/pub/irs-drop/n-09.27.pdf](http://www.irs.gov/pub/irs-drop/n-09.27.pdf).





|   | Yes | No | Unsure or N/A |
|---|-----|----|---------------|
| *3. Is there an ongoing health plan that covers employees where you or your family member used to work? Note: The plan could be sponsored by the former employer, union or joint board of trustees or another employer who may be responsible for providing COBRA continuation coverage to you.   |     |    |               |
| *4. Are you eligible for COBRA because of your or your family member's job loss? If so, answer YES. Also answer YES if you are eligible for COBRA because of the employee's reduction of hours, but the employee was later terminated from employment on or after March 2, 2010 through May 31, 2010. If you are eligible for COBRA because of divorce, legal separation, entitlement to Medicare, loss of dependent status, or death of the covered employee, answer NO. |     |    |               |
| <b>PLEASE NOTE:</b> If you answered NO to any of the Questions above (1-4) you may not be eligible for the COBRA premium reduction. If you have questions about the requirements for COBRA or for the COBRA premium reduction, or otherwise need assistance completing this application, please contact a Benefits Advisor toll-free at 1-866-444-3272.   |     |    |               |
|   | Yes | No | Unsure or N/A |
| *5. Was your or your family member's job termination involuntary?   |     |    |               |
|   | Yes | No | Unsure or N/A |
| a. Was it a permanent layoff?   |     |    |               |
| b. Was it a layoff with possible recall or a temporary furlough?  |     |    |               |
| c. Was it a buyout or severance package in anticipation of a layoff?  |     |    |               |
| d. Did the employee resign as a result of a change in the geographic location of employment?  |     |    |               |
| e. Did the employee's employment end while the employee was absent due to illness or disability?  |     |    |               |
| f. Other - please describe in the <b>Other Information</b> box at the end of the application.   |     |    |               |
| For more information that may help you to answer these questions, see Questions 1-9 of the IRS Notice 2009-27 at <a href="http://www.irs.gov/pub/irs-drop/n-09-27.pdf">www.irs.gov/pub/irs-drop/n-09-27.pdf</a> .   |     |    |               |
| *6. Regarding the entity who sponsors your or your family members' group health plan:   |     |    |               |
| a. Did you or your family member work for the Federal government, a State government, or local government such as a public school system, a public college or university or a police or fire department? If yes, you should file your application for review with HHS. See <a href="http://www.ContinuationCoverage.net">www.ContinuationCoverage.net</a> .   |     |    |               |
| b. Did you or your family member work for a Church (including daycares, hospitals, and other facilities run by religious organizations)? If yes, you should first contact the applicable state department of insurance to see if the plan is subject to state continuation. If the state law does apply, you can file your application for review with HHS. See above.  |     |    |               |
| *7. Do you believe that your or your family member's former employer had 20 or more employees in the calendar year prior to the employee's job termination?   |     |    |               |
| *8. Regarding COBRA coverage:   |     |    |               |
| a. Did you receive a notice informing you of your right to elect COBRA?   |     |    |               |
| b. Did you send in a form requesting, or electing, COBRA coverage?  |     |    |               |
| c. Were you denied COBRA coverage? If yes, explain the reason in the <b>Other Information</b> box at the end of the application. Attach copies of all relevant documents.   |     |    |               |
| *9. Regarding the COBRA premium reduction:  |     |    |               |
| a. Did you receive a notice informing you of your right to a premium reduction?   |     |    |               |
| b. Did you receive a notice informing you about the premium reduction extension and the opportunity to retroactively pay certain unpaid reduced premiums related to the extension from 9 to 15 months?  |     |    |               |
| c. Were you denied the premium reduction or granted the premium reduction, but denied the additional 6 months of premium reduction provided by the extension? If yes, explain the reason in the <b>Other Information</b> box at the end of the application below. Attach copies of all relevant documents.  |     |    |               |





**Other information : \*\*IMPORTANT\*\*** Please provide what you were told about the reason(s) you were denied COBRA continuation coverage and/or the premium reduction as well as any other information you believe is important for the Department of Labor to know in order to evaluate your application. Since the Department's review cannot begin until we have a complete application, please attach copies of documentation that you believe would assist the Department in making a determination regarding your application. Such documentation could include copies of one or more of the following items:

- Your COBRA election notice,
- Your "Request for Treatment as an Assistance Eligible Individual" or other form used to request the premium reduction,
- Your insurance card,
- Payroll stubs showing deductions for health benefits,
- Any documents detailing the date and circumstances of the termination of the employee's employment, or
- Any documentation you were provided regarding the denial of the premium reduction.

Under penalty of perjury, I declare that I have examined this application, including any accompanying attachments, and to the best of my knowledge and belief, it is true, correct and complete. I hereby authorize the release of the information contained in and attached to this application, as well as any additional oral or written information that may be collected in connection with this review process, to any other parties to this review, including the health plan and the employee's former employer. I further authorize the individuals involved in processing this review to discuss with other individuals such information as they may deem necessary in resolving this review.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Type or print name: \_\_\_\_\_

**Privacy Act Notice**

The Privacy Act of 1974 requires that when we ask you for information we tell you our legal right to ask for the information, why we are asking you for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory. Our legal right to ask for the information is section 3001(a)(5) of the American Recovery and Reinvestment Act of 2009 (ARRA) P.L. 111-5, as amended by the Department of Defense Appropriations Act, 2010, P.L. 111-118, the Temporary Extension Act of 2010, P.L. 111-144 and the Continuing Extension Act of 2010, P.L. 111-157. We are asking for this information to comply with the provisions of ARRA and to enable the Secretary of Labor to make a determination on your application for the Secretary's expedited review of the denial of your request for treatment as an assistance eligible individual. If you do not provide the requested information, you will not be eligible for such review. We do not sell the information that we collect. The personal information that you give us will be used only in connection with the Secretary's expedited review of the denial of your request for treatment as an assistance eligible individual.

We use contractors to perform various website and database functions. When we do, we make sure that the agreement language with the contractor ensures the security, confidentiality and integrity of any personal information to which the contractor may have access in the course of contract performance.

While online filing is secure, electronic mail is not secure. Therefore, we suggest that you don't send personal information to us by email. We will only send general information to you by email.

We may disclose the information you give us if authorized or required by Federal law, such as the Privacy Act. We may also disclose this information to the other parties to this review, including your health plan and, in many cases, to the employee's former employer, as well as to the courts as a part of the record on any appeal. You may have access to any of the information we collect about you. Also, if you provide false or fraudulent information, you may be subject to criminal prosecution. See section 1027, Title 18, U.S. Code (False statements and concealment of facts in relation to documents required by ERISA) and section 1001, Title 18, U.S. Code (Fraud and False Statements - Statements or entries generally). Other penalties may also apply.

**Paperwork Reduction Act Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average one (1) hour per response, including time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain benefit (*see* section 3001(a)(5) of the American Recovery and Reinvestment Act, P.L. 111-5, as amended by the Department of Defense Appropriations Act, 2010, P.L. 111-118, the Temporary Extension Act of 2010, P.L. 111-144 and the Continuing Extension Act of 2010, P.L. 111-157). Please send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of the Chief Information Officer, Attention: Departmental Clearance Officer, 200 Constitution Avenue, N.W., Room N-1301, Washington, DC 20210 and reference OMB Control Number. **Note:** Please do not return the completed application to this address.



# Instructions for the Application to the U.S. Department of Labor for Expedited Review of Denial of COBRA Premium Reduction as Provided by the American Recovery and Reinvestment Act of 2009

Please provide the required information where you see a \*. All other information is optional but will assist the Department in its review.

**Contact Information** Please complete the fields, if filing by mail or fax, by entering one letter or number per box. Please print clearly as demonstrated.

|                 |   |     |                                     |      |                          |     |                          |   |   |       |   |   |   |   |       |  |  |  |  |                |   |  |  |  |   |   |   |   |   |
|-----------------|---|-----|-------------------------------------|------|--------------------------|-----|--------------------------|---|---|-------|---|---|---|---|-------|--|--|--|--|----------------|---|--|--|--|---|---|---|---|---|
| *Name           |   | Mr. | <input checked="" type="checkbox"/> | Mrs. | <input type="checkbox"/> | Ms. | <input type="checkbox"/> |   |   |       |   |   |   |   |       |  |  |  |  |                |   |  |  |  |   |   |   |   |   |
| Last            |   |     |                                     |      |                          |     |                          |   |   | First |   |   |   |   |       |  |  |  |  | Middle Initial |   |  |  |  |   |   |   |   |   |
| S               | M | I   | T                                   | H    |                          |     |                          |   |   | J     | O | H | N |   |       |  |  |  |  |                |   |  |  |  |   |   |   |   |   |
| *Street Address |   |     |                                     |      |                          |     |                          |   |   |       |   |   |   |   |       |  |  |  |  |                |   |  |  |  |   |   |   |   |   |
| 1               | 2 | 3   | 4                                   |      | M                        | A   | P                        | L | E |       | L | A | N | E |       |  |  |  |  |                |   |  |  |  |   |   |   |   |   |
| *City           |   |     |                                     |      |                          |     |                          |   |   |       |   |   |   |   | State |  |  |  |  | Zip code       |   |  |  |  |   |   |   |   |   |
| A               | N | Y   | T                                   | O    | W                        | N   |                          |   |   |       |   |   |   |   |       |  |  |  |  | S              | T |  |  |  | 9 | 8 | 7 | 6 | 5 |

**Lines D1-D4** When adding information on your dependents, please remember that a separate application(s) must be completed for any family member whose information is not identical to the information you provide.

Please answer Questions 1-10 by placing an X in the appropriate box (  ).

**Question #1** Answer YES to this question if you were covered by the group health plan. If you were not enrolled but should have been, answer UNSURE and explain the circumstances in the other information section at the end of the application. Also answer YES if you were covered by the employer's group health plan on the day before the employee experienced a reduction of hours in employment anytime during the period from September 1, 2008 through May 31, 2010. If you acquired a new dependent (or dependents) by birth, adoption, or placement for adoption at any time after the date of the qualifying event and you made a timely request to special enroll the new dependent(s), answer YES to this question.

**Question #2** Answer YES if the employee's job termination occurred from September 1, 2008 through May 31, 2010. Answer NO if the termination occurred before September 1, 2008 or after May 31, 2010.

**Question #3** Answer YES if you have an ongoing health plan, if your former employer was acquired by another business that provides group health benefits, or if the employee's former employer was a "trade or business" under common control. The acquiring business or other employers in the control group may have to offer you COBRA continuation coverage. If these situations do not describe your health plan, answer NO to this question. If you answer NO, you may have no plan from which to obtain COBRA continuation coverage. If so, the premium reduction would not apply.

**Question #4** For purposes of the premium reduction, COBRA qualifying events such as divorce, legal separation, entitlement to Medicare, a child ceasing to be a dependent child under the terms of the plan, or death of the employee are not terminations of employment.

ARRA, as amended, provides that individuals who lost coverage because of a qualifying event that was a reduction of hours that occurred at any time from September 1, 2008 through May 31, 2010 may be eligible for the premium reduction if the employee is then involuntary terminated on or after March 2, 2010 and no later than May 31, 2010. The premium assistance for these individuals begins with the first period of coverage following the employee's termination (that occurs on or after March 2, 2010 through May 31, 2010). These individuals are also provided a new election opportunity if they did not elect (or elected and discontinued) COBRA. [A reduction of hours qualifying event occurs when the employee and his/her family lose coverage

because the employee's hours were reduced or the employee is no longer working enough hours required by the plan to maintain the group health coverage although they are still employed.]

**Question #5** To be eligible for the COBRA premium reduction, the employee's job termination must have been involuntary. Whether a termination of employment is an involuntary termination of employment is determined based on all the relevant facts and circumstances. Examples of situations that may constitute an involuntary termination of employment are listed in Question 5. For help in determining if other situations are involuntary terminations, see the IRS guidance at [www.irs.gov/pub/irs-drop/n-09-27.pdf](http://www.irs.gov/pub/irs-drop/n-09-27.pdf). Check the appropriate box that describes your situation. If none of the examples address your termination, answer YES in Item 5f and describe the circumstances of your termination in the **Other Information** box at the end of the application. Also please note: An employee and his or her dependents may not be eligible for COBRA continuation coverage if the employee was terminated from employment for gross misconduct.

**Question #6** If you were employed by a private-sector employer, answer NO.

**Government Plans:** If your benefits were provided by the Federal government (under Temporary Continuation Coverage (TCC) of the FEHBP), a State or local governmental plan (such as a public school, a public college or university or a police or fire department) answer YES. If you answered YES to this question, the Department of Labor may not have jurisdiction to review your request for review. You should send an application for review to the Department of Health and Human Services. Instructions on how to submit such an application may be found at [www.ContinuationCoverage.net](http://www.ContinuationCoverage.net).

**Church Plans:** If your benefits were provided by a Church plan (including religious organizations, or daycares, hospitals or other facilities operated by religious organizations) it would not be subject to the COBRA continuation coverage requirements under Federal COBRA and the Department of Labor does not have jurisdiction over the plan to issue a determination letter. If a plan sponsored by a church or church organization chooses to provide COBRA benefits absent a legal requirement, participants are ineligible to receive any ARRA COBRA premium reduction (see IRS Notice 2009-27, Q & A 16).

Church plans may be subject to state continuation laws. You should check with your state department of insurance to see if your state has a continuation coverage law that would cover a church plan. You can find the contact information for your state department of insurance on the National Association of Insurance Commissioners' website at: [http://www.naic.org/state\\_web\\_map.htm](http://www.naic.org/state_web_map.htm). If you believe your church sponsored plan is subject to state continuation, you can file an appeal with HHS (see above).

**Question #7** Answer based upon the number of employees you believe your employer had. We recognize that you may not have the information to confirm this response. Generally, Federal COBRA only applies to group health plans maintained by employers that had at least 20 employees on more than 50 percent of its typical business days in the previous calendar year, counting full- and part-time employees.

Please note: Although Federal COBRA rules do not apply to these small employers, the COBRA premium reduction applies to comparable continuation coverage that is provided pursuant to State law. If you answer NO to this Question indicating that your employer had fewer than 20 employees, your plan may be providing comparable State coverage. Contact the Department of Health and Human Services (HHS) at [www.ContinuationCoverage.net](http://www.ContinuationCoverage.net) to determine whether State law applies to your coverage and whether you can file an application with HHS for review.

**Question #8** If you were offered COBRA continuation coverage in connection with your or your family member's job, select the answer that best addresses the status of your COBRA election. The COBRA election notice should be provided to qualified beneficiaries within 44 days of a qualifying event and should include information to help you understand COBRA coverage, including the name of the plan's COBRA administrator. If you received such a notice, answer YES. You must be given an election period of at least 60 days (starting on the later of the date the notice was sent to you or the date you would lose coverage) to choose whether or not to elect COBRA continuation coverage. Did you let your plan know that you elected COBRA continuation coverage? If so, answer YES. If you requested COBRA continuation coverage but were denied, your plan must provide a notice within 14 days after receiving your request and the notice must explain the reason for denying your request. Refer to this notice to answer the question and provide the reason in the **Other Information** section at the end of the application and attach a copy of the notice with your application.

Note that ARRA added a second election period for some individuals who experience an involuntary job termination from September 1, 2008 through February 17, 2009. If these individuals did not elect COBRA continuation coverage on their first opportunity, or elected COBRA continuation coverage but discontinued it, they had a second opportunity to elect it.

ARRA, as amended, also added a second election period for some individuals who lost coverage because of a qualifying event that was a reduction of hours that occurred any time from September 1, 2008 through May 31, 2010 followed by the employee's involuntary termination from employment on or after March 2, 2010 and no later than May 31, 2010. If these individuals did not elect COBRA continuation coverage on their first opportunity, or elected COBRA continuation coverage but dropped it, they have a second opportunity to elect COBRA.

**Question #9** Answer Yes if you received a COBRA notice or additional notices that contained the information indicated in the question.

If you were denied the COBRA premium reduction in full or in part, your plan may have provided you written notification of the reason for the denial, possibly on the form you used to request the premium reduction. If so, refer to that document to provide the reason in the **Other Information** section at the end of the application and attach a copy of the document with your application. If you have received no response to your request, you should answer "Unsure."

**Question #10** Answer YES if you are *eligible for coverage* under another group health plan or Medicare benefits. If you answer YES to this Question, you are not eligible for the premium reduction on the first date of eligibility for the other coverage. Note: If you are eligible for the premium reduction, you are required to notify the plan when you become eligible for Medicare or other group health coverage. Failure to do so may subject you to a tax penalty of 110 percent of the amount of any premium reduction.

**Information on your plan sponsor/employer, insurance company, and/or plan administrator** Refer to the COBRA notice you received to find the information to use for this application. Attach a copy of the COBRA notice to your application.

**Other Information** Please provide what you were told about the reason(s) you were denied COBRA continuation coverage and/or the premium reduction as well as any other information you believe is important for the Department of Labor to know in order to evaluate your application.

**Attachments** Since the Department's review cannot begin until we have a complete application, please attach copies of documentation that you believe would assist the Department in making a determination regarding your application. Such documentation could include copies of one or more of the following items, if relevant and applicable: your COBRA election notice, your Request for Treatment as an Assistance Eligible Individual or other form used to request the premium reduction, your insurance card, payroll stubs showing deductions for health benefits, any documents detailing the date and circumstances of the termination of the employee's employment, or any documentation you were provided regarding the denial of the premium reduction.

If you submit attachments for this application after submitting the application or if you fax or mail attachments for an online application, be sure to clearly print your name and phone number on the first page of any document you send. If you know your control identification number please print that as well.