



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

Group Administrator Memo #09-02

To: Group Benefits Administrators
From: State and Local Health Benefits Programs
Date: April 9, 2009
Re: Extended Coverage (COBRA) Extended Election Period

**INSTRUCTIONS
Notice in Connection with Extended Election Period
Distribution Deadline April 18, 2009**

This notice should be prepared on your employer letterhead and must be sent to any Assistance Eligible Individual (AEI) or any individual who would be an AEI if an Extended Coverage Continuation Election were in effect. This will include any individual who:

1. Had a qualifying event at any time from September 1, 2008 through February 16, 2009; and
2. Either did not elect Extended Coverage, or who elected it but subsequently discontinued Extended Coverage.

This notice includes information on ARRA's additional election opportunity, as well as premium reduction information.

This notice must be provided prior to April 18, 2009.

Please review the form carefully before you transfer it to your letterhead. There are numerous places throughout the form that require you to enter information. These spots are listed with *"Insert"* and are in **bold red print**. After insertion on your letterhead, you will need to remove the bold and red color from the insert sections.

Background

The American Recovery and Reinvestment Act of 2009 (ARRA) includes provisions for a COBRA/Extended Coverage premium subsidy for certain qualified beneficiaries who were involuntarily terminated on or after September 1, 2008, and no later than December 31, 2009,

and an extended election period for qualified beneficiaries who were involuntarily terminated on or after September 1, 2008, were eligible for Extended Coverage but did not elect or discontinued coverage. Following is a summary of terminology, legislative provisions and the impact on the TLC program. The term Extended Coverage will be used synonymously with COBRA.

Assistance eligible individuals (AEIs)

An AEI includes any EXTENDED COVERAGE qualified beneficiary (one who is covered on the day before the qualifying event and loses coverage due to the qualifying event) who lost/loses coverage due to involuntary termination of employment between September 1, 2008, and December 31, 2009, elects EXTENDED COVERAGE, and is not eligible for other group health plan coverage or Medicare. (This includes dependents that lost coverage due to the employee's involuntary termination.) To the best of our knowledge at this time, AEIs do not generally include individuals who resigned or retired since voluntary termination does not result in eligibility for the subsidy. While we are still waiting for additional clarification from the IRS regarding the definition of "involuntary termination", it is our understanding that AEIs could include employees who resigned in lieu of being involuntarily terminated.

Premium assistance

AEIs will be required to pay 35% of the EXTENDED COVERAGE premium. Full premiums are due to TLC but you should receive credit for the 65% subsidy back to March 1, 2009, to anyone who paid the full EXTENDED COVERAGE premium for March going forward until the end of the subsidy period for that individual or family group. This credit will be taken on your IRS Form 941 Tax Return. There is no opportunity for the subsidy prior to March 1, 2009. The IRS has suggested that AEIs should not reduce their premium payment to reflect the subsidy without confirming their eligibility, and plans may not reduce premiums to reflect the subsidy without first confirming eligibility through the application process.

The subsidy applies to EXTENDED COVERAGE for health plan coverage only and does not include continuation coverage for any medical flexible reimbursement account that you maintain. The subsidy applies to the full premium amount for AEIs, including coverage for eligible dependents. Premium assistance can last up to nine months, but it will not extend the normal 18-month duration from the start of EXTENDED COVERAGE based on the original termination of employment event. Individuals with incomes greater than \$125,000 (\$250,000 for a joint return) and who seek and are paid premium assistance will ultimately have any subsidy "recaptured" by the IRS.

Extended election period

Any AEI who did not elect EXTENDED COVERAGE or elected and then terminated EXTENDED COVERAGE will have an opportunity to enroll for coverage beginning March 1, 2009. The election period will last 60 days from the date that the election is offered, and the duration of coverage will extend no longer than the end of the original 18-month EXTENDED COVERAGE period which is based on the original qualifying event. Other subsidy limitations also apply to these enrollees (e.g., nine months maximum subsidy). Assuming continued eligibility, if an election is made within the election period, coverage would begin March 1, 2009. Initial and subsequent EXTENDED COVERAGE premium grace periods (45 days/30 days) will apply.

Questions

If you have questions or require assistance, please feel free to contact Walter E. Norman, TLC Program Manager at (804) 786-6460 or by email at walter.norman@dhrm.virginia.gov. **Please give this matter your immediate attention.**

TLC is in the process of revising other Extended Coverage forms and will provide additional information to you in the near future. Your patience is appreciated.

Attachment:

- Extended Coverage (COBRA) Extended Election Period Notice