



A HIGHMARK COMPANY

HM Life Insurance
Company

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Company of New York

HM Casualty
Insurance Company

RBS Re

HM Benefits
Administrators

MEMORANDUM

Date: March 3, 2009

Subject: American Recovery and Reinvestment Act of 2009 - COBRA

From: Matthew P. Piroch, Senior VP of Operations and IT

As a provider of COBRA administration, our Company has been following developments in legislation in order to better serve our customers. The update below contains an overview of some recent developments which may impact our employers and subscribers.

On Tuesday, February 17, 2009, President Obama signed into law H.R.1, the American Recovery and Reinvestment Act of 2009, commonly known as the Stimulus Bill. The majority of the Act contains provisions relative to assisting individuals and businesses in an effort to stimulate the economy.

One portion of the Act, Division B's Title III, was dedicated to "Premium Assistance for COBRA Benefits." The Federal Government has allocated \$24.7 billion in an effort to assist those individuals who were "involuntarily terminated" from employment between the dates of September 1, 2008 and December 31, 2009. Such individuals, as well as their dependents, could become eligible for a 65% COBRA premium subsidy, available for a maximum of 9 months.

Those individuals who have already been laid off since September 1, 2008, who had initially declined COBRA, could again have the opportunity to elect coverage; the Employer / Group Health Plan Sponsor is responsible for providing applicable Notice to any individual who has already been or will be involuntarily terminated from employment. The premium subsidy mentioned above may not be available to certain high-income individuals.

Other items of note:

- **Employer's / Group Health Plan's Premium Reimbursement:** The Act requires the Group Health Plan to pay the full cost of the COBRA coverage and then seek reimbursement from the Federal Government for the subsidy. Since the assistance-eligible employees are required only to pay 35% of premiums, the Federal Government will credit certain Group Health Plans, Employers or Insurers as defined in the Act through the creation of a new section in the Internal Revenue Code (see §6432 of the IRC, as added by paragraph 12 of the Act).

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- Individual to Notify Employer Plan of “Assistance-Eligible Individual Status”: The affected individuals must notify their Employer / Group Health Plan; information on this is forthcoming by Secretary of Labor. If the individual requests treatment as an “assistance-eligible individual” and the Employer Plan denies such treatment, the Federal Government may provide for expedited review of the denial. The individual is eligible for review in a manner as provided by the Secretary of Labor.
- Notification to Individuals Involuntarily Terminated between 9/1/08 and 12/31/09: Additional Notification must be provided to individuals who were involuntarily terminated between 9/1/08 and 12/31/09, which can advise of the availability of a premium reduction. For those individuals who became COBRA eligible prior to the Act’s effective date, such notices must be provided within 60 days of the date of the Act’s passage. The Secretary of Labor will advise of alternative notice methods; such guidance is forthcoming.
- Additional Information Forthcoming: The Act advises that Model Notices will be issued within 30 days of the passage of the Act; additional Regulations may also be forthcoming.
- Not Included in the Act: Earlier versions of the Stimulus Bill would have allowed terminated employees over the age of 55, or certain employees with greater than 10 years of services with an employer, to retain coverage under COBRA for longer than the usual 18 months. Such provisions did not make it into the final version of the final compromise bill and are therefore not in the Act.

The Act is currently effective, as passed on February 17, 2009 with provisions set to expire as early as December 31, 2009. COBRA coverage may be set to begin on the first period of coverage beginning on or after the law’s date of enactment, which may be as early as March 1, 2009.

The full text of the Act is currently available as linked from the White House website at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf (please refer to p. 341 of the 407-page document for the beginning of Division B’s Title III). The Act is also available on the Library of Congress website at <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.1.enr>:

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