

ARRA COBRA Subsidy Premium Reduction:

What Plans Are Eligible?

FEDERAL COBRA CONTINUATION COVERAGE PLANS

ARRA provides subsidies for “COBRA continuation coverage,” which is required by federal law for “group health plans.” A group health plan generally includes any plan sponsored by an employer or employee organization to provide health care.

As a general rule, employers subject to COBRA must offer continuation coverage to qualified beneficiaries for any health plan that is considered employer sponsored. The DOL resolved the issue for Health Savings Accounts, determining that they are not employer sponsored health plans subject to COBRA, as long as participation is voluntary. HRAs, on the other hand, are considered employer sponsored health plans and are therefore subject to all federal regulations that apply to ERISA plans, including COBRA.

COVERAGE ELIGIBLE FOR PREMIUM REDUCTION UNDER ARRA

Notice 2009-27 clarifies which types of group health plans are eligible for the premium assistance provisions under ARRA. Specifically, all group health plans other than health FSAs offered under a section 125 cafeteria plan arrangement are subsidy-eligible. Therefore, the subsidy is available for COBRA coverage under a vision-only or dental-only plan as well as so-called “mini-med” plans. Importantly, the IRS clarified that the premium reduction is available for COBRA coverage under a health reimbursement arrangement (HRA). Although an HRA may qualify as an FSA under applicable tax principles, the exclusion of FSAs from the premium reduction is limited to FSAs provided through a section 125 cafeteria plan, which would not include an HRA.