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# Issue Brief



## COBRA Subsidies for Laid-Off Workers: An Initial Report Card

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**ABSTRACT:** Initial reports about the new COBRA premium subsidy program for recently laid-off workers indicate that enrollment in COBRA continuation coverage has increased substantially, with a healthier mix of individuals enrolling than before. Moreover, implementation has gone smoothly, and most eligible people have heard about the subsidy. Still, many of those who are eligible cannot afford to purchase COBRA coverage, even with the 65 percent premium subsidy. Very high subsidies and very easy enrollment are likely needed to enroll all, or nearly all, newly unemployed people who lack another source of affordable coverage. If the subsidies are extended beyond February 2010, Congress should provide new assistance in ways that are consistent with the existing administrative infrastructure and rules for both COBRA and the ARRA subsidies.

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### OVERVIEW

In February 2009, Congress created a temporary but important new subsidy for unemployed workers' health insurance. Under a provision of the American Recovery and Reinvestment Act of 2009 (ARRA), the federal government funded 65 percent of COBRA health insurance premiums for workers laid off between September 2008 and December 2009 to allow them to continue their workplace coverage for up to nine months.<sup>1</sup> ARRA sought to increase access to coverage quickly by building upon existing COBRA mechanisms. The legislation eased implementation by transferring subsidies in bulk to employers or insurers—they subtract subsidies from payroll taxes otherwise owed—rather than to one eligible person at a time through credits or vouchers.

In December 2009, Congress extended ARRA in two ways: it lengthened the subsidies from 9 to 15 months, thus helping the many enrollees whose assistance was ending; and it qualified for subsidies workers laid off through February 28, 2010. Congress is likely to revisit the issue in early 2010 if (as seems virtually

certain) unemployment rates remain high. In addition, pending legislation proposes to make further changes to ARRA.<sup>2</sup> This issue brief describes the early experience with the ARRA subsidy, based on a literature scan, some initial enrollment data, and interviews with consumer-group and union officials, benefits managers and consultants, health plan staff, and federal officials.<sup>3</sup> Among the major findings and conclusions are:

- ARRA has increased—perhaps doubled—COBRA participation, and the addition of the subsidy has attracted a healthier mix of enrollees than before.
- Implementation has been remarkably smooth, especially with the tight timeframe.
- Most eligible people seem to have heard about the new program.
- The new federal subsidy has, in some cases, displaced assistance previously provided by some large private employers.
- COBRA is very valuable for those who can use it but targets only one segment of the nation’s uninsured. Moreover, many eligible workers are unable to afford the 35 percent premium share.
- If ARRA’s subsidies are extended, Congress should provide new assistance in ways that are consistent with existing processes to avoid backlash from imposing a second set of “crash” changes within a year.

## KEY FINDINGS

### **Before ARRA was implemented, COBRA filled a big gap in insurance but enrolled a small share of eligible people.**

People who become unemployed often also lose their health insurance, but COBRA lets them stay covered by paying their former employer’s average claims cost, plus 2 percent for administration.<sup>4</sup> Employers have objected that COBRA costs them too much, because it attracts older and sicker people. Consumer advocates, meanwhile, have contended that COBRA

is unaffordable for most laid-off workers, who lose income but face much higher premiums than the typical 17 percent share paid by active employees with self-only coverage.<sup>5</sup> In practice, no more than 20 percent of eligible people typically enrolled in COBRA prior to ARRA, and, on average, they generated about \$1.50 in medical spending for each premium dollar, according to Spencer and Associates, which generates the only regular reports on COBRA experience.<sup>6</sup>

### **The new subsidy substantially increases COBRA “take up,” but still only for a minority of people who are eligible.**

Our interviewees among large and mid-sized firms almost unanimously reported increases in COBRA participation—often substantial ones. Hewitt and Associates, a human resources consulting and outsourcing firm, reported that average COBRA take-up doubled after ARRA took effect, from 19 percent to 38 percent (exhibit).<sup>7</sup> The firm’s data come from 200 very large firms representing almost 5 percent of U.S. workers and their dependents. Its pre-ARRA levels are consistent with Spencer and Associates’ findings. Increases occurred throughout the economy and were especially large within sectors where prior take-up rates among COBRA-eligible workers had been comparatively low.

Much lower COBRA take-up, both before and after ARRA, is reported by Ceridian Corporation, a business services firm known for COBRA administration.<sup>8</sup> It found an average increase in take-up of 43 percent—a rise from 12.4 to 17.7 percent—among 50,000 employers with a total of 7.3 million employees. Ceridian’s *post*-subsidy take-up is slightly below the *pre*-subsidy rates from both Spencer and Hewitt, perhaps because Ceridian’s client employers differ in average wages, benefits culture, or other factors.

These pre- and post-ARRA comparisons almost certainly underestimate the legislation’s effects, albeit to an unknown extent. The reason is that they incorporate everyone offered COBRA coverage, including those individuals who qualify because of voluntary departure, divorce, or death—which ARRA does not address. Better comparisons would focus only on involuntary lay-offs both before and after ARRA, as

**ARRA Subsidy and Rate of Take-Up of COBRA Coverage**  
 (200 large U.S. firms, with 8 million employees, in 21 sectors)

21 Industry Sectors	Pre-ARRA Rate (Sept. 2008 to Feb. 2009)	Post-ARRA Rate (March 2009 to June 2009)	Percentage Change
Cross-industry average	19%	38%	100%
Median	25%	52%	108%
change in top pre-ARRA quartile			13%–97%
change in bottom pre-ARRA quartile			189%–267%

Source: Hewitt Associates press release, Aug. 18, 2009.

Note: The quartile presentations exclude the highest outlier and the lowest outlier.

only workers involuntarily terminated from employment qualify for ARRA.

**ARRA may have reduced the excess of medical spending over premiums for COBRA enrollees.**

As noted above, employer costs are typically higher for COBRA enrollees than active workers. The main reason is adverse selection—that is, disproportionate enrollment by higher-risk people who expect to need health care and so are willing to pay full premiums.<sup>9</sup> Also, COBRA enrollees know their coverage will soon end, so they may use their insurance with unusual intensity while they are paying for it.<sup>10</sup> In principle, ARRA’s subsidy should attract a more balanced mix of risks, just as employers’ premium contributions do for active workers. Credible data on post-ARRA claims are not yet available, but some interviewees reported that younger people seem to be enrolling and that very early claims trends seem better than before.

**ARRA was rapidly implemented with surprisingly few problems and at manageable cost.**

Federal implementation was remarkable, especially given the multiple agencies involved. The lead agencies, the U.S. Department of the Treasury and the U.S. Department of Labor, both produced needed guidance for firms and appropriate new processes in very short order, even without new administrative funding for their efforts.<sup>11</sup> One benefits manager told us that, although she normally likes to complain about government, these agencies “did a bang-up job here.”

Private firms faced early uncertainty and “a scramble” to respond, as one interviewee described it. After employer responsibilities were clarified, firms faced an intense but time-limited effort to alter existing outreach, enrollment, and premium collection processes. Some interviewees castigated ARRA as burdensome—initially “a bit of a nightmare,” said one, though adding that it was soon running “smoothly.” Most interviewees, at least in hindsight, saw implementation as only a short-term push—a “nuisance” or “distraction”—rather than a major new cost.

Nearly all concerns expressed by our interviewees related to the eligibility and enrollment processes. There was some grouching that employers had to finance the “float” between enrollment and recoupment of the 65 percent federal share through a tax-withholding offset. But the process for paying subsidies drew no complaints and was perceived to occur as a matter of routine.

**ARRA’s new provisions have been successfully communicated to firms and eligible ex-employees.**

Federal communication with stakeholders seems good. More important, eligible workers also seem aware of their rights, as a general rule. The most convincing evidence is that neither consumer nor union interviewees said they had “heard any screaming,” as they often do about problems. Moreover, workers have made heavy use of the Department of Labor’s new appeals mechanism for eligibility denials: some 70,000 appeals were lodged through August, whereas pre-ARRA the department typically received only 59,000 telephone inquiries a year about any aspect of COBRA.<sup>12</sup>

## OTHER OBSERVATIONS

A number of interviewees at large national firms reported that, before ARRA, they offered laid-off workers severance packages that included significant health insurance premium contributions. Several reported reducing or dropping this benefit in reaction to ARRA. However, it is unknown how common such severance packages were among laid-off workers as a whole prior to ARRA, how many firms changed their behavior in response to the federal legislation, and how many workers have been affected by such changes.<sup>13</sup>

One union interviewee called COBRA a mere “Band-Aid” compared with the scope of uninsurance. Indeed, COBRA is, by its nature, an incremental program. So too is ARRA’s subsidy, which helps only those people able to afford their share of the premium. Many eligible workers are unable to afford their 35 percent premium share, as interviewees often noted. Laid-off workers with low incomes are disproportionately left behind, as they are more likely to have lacked employer health benefits before they were terminated—and thus are ineligible for COBRA and the subsidy.<sup>14</sup>

The federal cost of the ARRA subsidy is subject to challenge at a time of large deficits, but should be seen in perspective. If COBRA-eligible workers were still employed, federal tax exclusions would effectively finance an average of just over 32 percent of their premiums<sup>15</sup>—almost half the ARRA subsidy level. Buying COBRA also helps reduce uncompensated medical care and likely some Medicaid enrollment, creating at least a measure of offsetting savings at multiple levels of government.<sup>16</sup>

Our key informants mainly supported the ARRA subsidy and its possible extension as very helpful for a needy group of people. This support was not uniform, but it was surprising, given the many years of negative comments about COBRA from employers and benefits consultants.<sup>17</sup>

## IMPLICATIONS FOR POLICY

With regard to possible extensions of the ARRA subsidy to layoffs beyond February 2010, as well as proposals to increase the generosity of premium subsidies and to provide a further “look back” period,<sup>18</sup> our work suggests the following:

- Carrying subsidy eligibility forward to cover layoffs after February 2010 is consistent with the goals of the original legislation, as unemployment remains high despite signs of economic recovery and is forecast to continue at elevated levels.
- Lawmakers’ recent increase in the duration of ARRA subsidies responded to long-term unemployment rates that have been at the highest levels ever recorded by the Labor Department.<sup>19</sup>
- Like the ARRA extension enacted in December, any further changes should comport with the existing administrative infrastructure and rules for both COBRA and initial ARRA subsidies, to avoid backlash from imposing a second set of “crash” changes within a year.
- Adding an additional five months of retroactivity, as proposed by H.R. 3930, would be burdensome for employers and insurers. Significant administrative challenges could result if firms’ eligibility determinations starting in January 2010 had to go back more than a year and a half, to layoffs starting April 1, 2008. In contrast, ARRA required only a five-month “look back” from February 2009 to the prior September.
- Policymakers could encourage employers to include premium payments in severance packages by giving firms a tax credit covering perhaps 50 percent of payments for ARRA-eligible workers. If such a credit encouraged more firms to make these payments, the costs per new enrollee would fall both for government and for each worker.

- Very high subsidies and very easy enrollment are needed to enroll all, or nearly all, newly unemployed people who lack another source of affordable coverage. Interviewees from all perspectives agreed that even COBRA premiums subsidized by ARRA are too costly to help many laid-off workers.

ARRA experience suggests some lessons for comprehensive reform as well:

- Timely and stakeholder-sensitive implementation can create goodwill for a new policy, even among those for whom it appears somewhat adverse to their economic interests.

- Implementation can be easier when a new initiative builds upon a preexisting program. However, much of this advantage can be lost if the initiative necessitates major changes in administrative processes or in the categories of beneficiaries that the program previously served.
- Enrollment into COBRA plans and funding via tax offsets were much less cumbersome to implement than were the individual tax credits of the Health Coverage Tax Credit program begun in 2002, which targets workers displaced because of trade liberalization.<sup>20</sup>

## NOTES

<sup>1</sup> ARRA, Public Law 111-5, Feb. 17, 2009, Title III, sect. 3001, “Premium Assistance for COBRA Benefits,” <http://www.dol.gov/ebsa/pdf/COBRAPremiumReductionProvision.pdf>.  
COBRA is the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272, Title X on continuation coverage, codified at 29 U.S.C. sect. 1161 ff. For good descriptions, see H. G. Yacker, *Health Insurance Continuation Coverage Under COBRA*, Congressional Research Service Report for Congress, no. RL30626, March 29, 2005 <http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL3062603292005.pdf>; “Cobra Continuation of Coverage,” chapt. 27, pp. 279-288, in EBRI, *Fundamentals of Employee Benefit Programs* (6th ed., 2009), [http://www.ebri.org/pdf/publications/books/fundamentals/2009/18\\_PBGC\\_RETIREMENT\\_Funds\\_2009\\_EBRI.pdf](http://www.ebri.org/pdf/publications/books/fundamentals/2009/18_PBGC_RETIREMENT_Funds_2009_EBRI.pdf).

<sup>2</sup> Section 1009 of the Department of Defense Appropriations Bill for 2010, Pub. Law No: 111-118; see M. P. McQueen, “COBRA Benefits Expanded,” *Wall Street Journal*, Dec. 22, 2009, <http://online.wsj.com/article/SB10001424052748704304504574610550356800752.html>. Also see M. Singletary, “A Subsidy for Those Most in Need,” *Washington Post*, Dec. 3, 2009.

<sup>3</sup> The authors used structured protocols to interview 26 key informants, including consumer-group and union officials, benefits managers at large and medium-sized firms, benefits consultants, and staff at health plans, the Department of Labor, and the Treasury Department.

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- 5 Kaiser Family Foundation and Health Research and Educational Trust, *Employer Health Benefits: 2009 Annual Survey*, at Exhibit 6.1, p. 68, Sept. 15, 2009, <http://ehbs.kff.org>.
- 6 Spencer and Associates has conducted 16 surveys, starting with COBRA's first year. For the most recent, on plan year 2008, see <http://hr.cch.com/news/benefits/061009.asp>. Spencer's COBRA surveys are not fully representative, but they have included a range of firm sizes and have been used by a variety of experts, including the Employee Benefit Research Institute and the U.S. Department of Labor. P. Fronstin, *Health Insurance Portability: COBRA Expansions and Job Mobility*, EBRI Issue Brief no. 194, Feb. 1998, [http://www.ebri.org/publications/ib/index.cfm?fa=ibDisp&content\\_id=105](http://www.ebri.org/publications/ib/index.cfm?fa=ibDisp&content_id=105); Department of Labor, Employee Benefits Security Administration, "Health Care Continuation Coverage; Final Rule," 29 CFR Part 2590, promulgated in *Federal Register* 69(102):30084–30112, May 26, 2004, <http://www.dol.gov/ebsa/regs/fedreg/final/2004011796.pdf>.
- 7 Hewitt Associates, "Hewitt Analysis Shows Average COBRA Enrollments Doubled Since Subsidy Became Available in February 2009: COBRA Enrollments Spiked in Most Industries Experiencing Mass Layoffs," press release, Aug. 18, 2009, <http://www.hewittassociates.com/Intl/NA/en-US/AboutHewitt/Newsroom/PressReleaseDetail.aspx?cid=7133>.
- 8 Ceridian Corporation, "Ceridian Analyzes COBRA Enrollments in Light of a Premium Subsidy in the American Recovery and Reinvestment Act of 2009 (ARRA): Complexity and Added Restrictions May Have Limited the Program's Impact," Oct. 16, 2009, [http://www.ceridian.com/www/content/9998/15514/15573/15853/15854/cobra\\_subsidy.pdf](http://www.ceridian.com/www/content/9998/15514/15573/15853/15854/cobra_subsidy.pdf).
- 9 Fronstin, *Health Insurance Portability*, Feb. 1998.
- 10 S. Block and J. Appleby, "Employers Fear Cost of Health Insurance for Jobless Workers," *USA Today*, Feb. 20, 2009, [http://www.usatoday.com/money/industries/health/2009-02-19-cobra-subsidy-health-costs\\_N.htm](http://www.usatoday.com/money/industries/health/2009-02-19-cobra-subsidy-health-costs_N.htm).
- 11 For ARRA implementation materials, see Internal Revenue Service, "COBRA Health Insurance Continuation Premium Subsidy," <http://www.irs.gov/newsroom/article/0,,id=204505,00.html>; U.S. Department of Labor, Employee Benefits Security Administration, "COBRA Continuation Coverage Assistance Under ARRA" <http://www.dol.gov/ebsa/cobra.html>.
- 12 Department of Labor, "Health Care Continuation Coverage; Final Rule," May 26, 2004.
- 13 In the mid-1990s, almost 30 percent of involuntary, COBRA-eligible job leavers received some employer payments for health insurance. K. Kapur and M. S. Marquis, "Health Insurance for Workers Who Lose Jobs: Implications for Various Subsidy Schemes," *Health Affairs*, May/June 2003 22(3):203–13. The proportion of workers receiving such benefits may well have declined since then.
- 14 Kaiser Commission on Medicaid and the Uninsured, *The Uninsured: A Primer*, "Supplemental Data Tables," Sept. 2009, <http://www.kff.org/uninsured/upload/7451.pdf>.
- 15 Urban-Brookings Tax Policy Center Microsimulation Model (version 1006-1), Table 07-0055, "Current Law Tax Benefits for Health Insurance, Distribution of Subsidies by Cash Income Percentile, 2009, Nondependent Tax Units with Head or Spouse Under 65," Feb. 6, 2007, <http://www.taxpolicycenter.org/numbers/displayatab.cfm?DocID=1458&topic2ID=60&topic3ID=73&DocTypeID=2>.
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- <sup>19</sup> In November 2009, the average length of involuntary unemployment was 28.5 weeks, and 38.3 percent of workers had been without work for 27 weeks or longer. These were the highest numbers reported since the Department of Labor began collecting these statistics in 1948. Data generated from the Bureau of Labor Statistics, "Average Weeks Unemployed," Series I.D. LNS13008275; BLS, "Of Total Unemployed, Percent Unemployed 27 Weeks & over," Series I.D. LNS13025703.
- <sup>20</sup> S. Dorn, *Health Coverage Tax Credits: A Small Program Offering Large Policy Lessons*, prepared by the Urban Institute for the Robert Wood Johnson Foundation, Feb. 2008, <http://www.urban.org/url.cfm?ID=411608>; S. Dorn, *Administrative Costs for Advance Payment of Health Coverage Tax Credits: An Initial Analysis* (New York: The Commonwealth Fund, March 2007).

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