



COBRA Stimulus

Major Expansion, Major Changes
in the
American Recovery and Reinvestment Act (ARRA)

■ Experience Infinisource ■

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Dan Taylor is well versed in employee benefit administration and compliance issues. In the twelve years that Dan has worked at Infinisource, he has conducted hundreds of training sessions for both Human Resource and insurance professionals. He has also written articles for several publications.

Dan brings to Infinisource many years of sales experience and is currently responsible for relationships with preferred and strategic partners.

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Goals of Today's Session

- Highlight COBRA changes in ARRA
- Provide analysis of COBRA provisions
 - Subsidy
 - Special election period
 - Payroll tax offset
 - Health Coverage Tax Credit (HCTC)
 - Plan enrollment option
 - Notice requirements
 - Other features

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Goals of Today's Session

- Discuss other changes in ARRA
 - HIPAA
 - Transportation Plans
- Summarize Infinisource actions
- Develop action plan
- Identify additional resources
- Answer questions

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Major COBRA Highlights



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Major COBRA Highlights

- Subsidy for assistance eligible individuals (AEIs)
 - 65 percent for first coverage month after February 17
 - Involuntary termination of employment
 - Qualifying events: September 1, 2008 through December 31, 2009
 - Maximum of nine months in duration

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Major COBRA Highlights

- Special Election Period
 - COBRA election was not in effect on February 17, 2009
 - Second election period starts 60 days after notice is sent
 - Coverage start date is first coverage month after February 17 (i.e., March 1)

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Major COBRA Highlights

- Payroll Tax Offset
 - Employer makes up 65 percent
 - Employer reduces payroll tax payments
 - Employer reports reimbursement on revised Form 941

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Major COBRA Highlights

- HCTC
 - Increases from 65 to 80 percent
 - Months of eligibility: May 1, 2009 through December 2010
 - Extended COBRA maximum coverage period for some individuals

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Major COBRA Highlights

- Plan Enrollment Option
 - Optional to employers, not required
 - 90-day plan enrollment option to all AEIs
 - Offer coverage that is less expensive than current COBRA coverage

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Major COBRA Highlights

- Notices
 - Subsidy Notice
 - Special Election Notice
 - Plan Enrollment Option Notice
 - Revised Election Notice
 - QB notice of subsidy termination

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COBRA Subsidy



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COBRA Subsidy

- Eligibility requirements
 - Initial qualifying events: September 1, 2008 through December 31, 2009
 - Involuntary termination of employment for reasons other than gross misconduct only
 - Must be a Qualified Beneficiary (QB)
 - Must elect COBRA
 - Modified adjusted gross income (MAGI) must be under selected threshold

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COBRA Subsidy

- Available coverage
 - All offered coverage
 - Exception: Health FSAs
 - COBRA and state continuation
- Timing of subsidy
 - First coverage month after February 17
 - May require QBs to establish eligibility

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COBRA Subsidy

- Duration of subsidy
 - Maximum of nine months
 - Also ends when:
 - Eligible for other group health plan coverage or Medicare
 - Maximum coverage period expires
 - Other termination reasons (e.g., non-payment)
 - HRAs and §106(c)(2)
 - Insignificant premium payment rules
- Subsidy does not extend COBRA coverage period

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COBRA Subsidy

- Premiums paid at 100 percent
 - Credit toward future months
 - Refund excess amount
- Severance arrangements
 - QB pays no more than 35 percent
 - Employer subsidy credit is based on QB payment

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COBRA Subsidy

- Severance example #1
 - COBRA premium = \$1,000
 - Active employee cost share = 80/20
 - AEI premium = \$200
 - Employer subsidy credit = \$370
 - $\$200 / 35\% = \570
 - $\$570 \times 65\% = \370

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COBRA Subsidy

- Severance example #2
 - COBRA premium = \$1,000
 - Active employee cost share = 80/20
 - AEI premium = $\$200 \times 35\% = \70
 - Employer subsidy credit = \$130
 - $\$70 / 35\% = \200
 - $\$200 \times 65\% = \130

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COBRA Subsidy

- MAGI rules
 - No subsidy if current year MAGI is:
 - \$145,000 (single)
 - \$290,000 (married, filing jointly)
 - Sliding scale subsidy if current year MAGI is:
 - \$125,000 - \$145,000 (single)
 - \$250,000 - \$290,000 (married, filing jointly)

COBRA Subsidy

- MAGI calculation example
 - Single MAGI of \$140,000
 - Subsidy reduction = 75 percent
 - $\$140,000 - \$125,000 = \$15,000$
 - $\$15,000 / \$20,000 = 75$ percent
- Recapture occurs on Form 1040
- Multiple tax year scenario
- QB may opt out of subsidy

Special Election Period





Special Election Period

- Eligibility requirements
 - COBRA election was not in effect on February 17, 2009
 - Initial qualifying events: September 1, 2008 through December 31, 2009
 - Involuntary termination of employment for reasons other than gross misconduct only

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Special Election Period

- Election period
 - 60 days from when notice is provided
 - All offered, unelected coverage
 - Exception: Health FSAs
- Coverage effective date: first coverage month after February 17

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Special Election Period

- Non-coverage period does not count as gap in coverage under HIPAA
- Special election period does not extend COBRA coverage period
- Unclear when first payment is due (presumably 45 days after election)

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Payroll Tax Offset



Payroll Tax Offset

- Entities entitled to reimbursement
 - For multiemployer plans, the plan
 - For plans subject to COBRA, the employer
 - For fully insured plans subject to state continuation, the carrier

Payroll Tax Offset

- How the employer offset works
 - Employer receives 35 percent premium
 - Employer is responsible for full premium
 - Employer deducts offset amount from payroll tax payments
 - Employer reports offset amount and number of AEIs on revised Form 941
 - New Form 941 deadline: May 10, 2009

Payroll Tax Offset

- Other forms requiring revision
 - Form 943 (annual tax return for agricultural employees)
 - Form 944 (annual tax return)
 - Amended forms (941-X, 943-X, 944-X)
- No anticipated changes to W-2 or W-3
- COBRA subsidy is *supposed* to be cost-neutral to employers

HCTC



HCTC

- Basic definition (before February 17)
 - 65 percent tax credit for some layoffs
 - Available to:
 - Recipients of Trade Adjustment Assistance (TAA)
 - Recipients of alternative TAA
 - Those with non-forfeitable pensions paid by Pension Benefit Guaranty Corporation (PBGC)



HCTC

- Changes
 - 80 percent tax credit through December 2010
 - Extends COBRA maximum coverage period for:
 - TAA recipients
 - PBGC payment recipients

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HCTC

- COBRA period for PBGC payment recipients
 - Death of covered employee
 - Death of covered employee plus 24 months (spouse and dependent)
 - December 31, 2010

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HCTC

- COBRA period for TAA recipients
 - Termination of eligibility
 - December 31, 2010

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Plan Enrollment Option



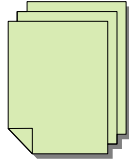
Plan Enrollment Option

- Permitted, not required, by ARRA
- Many difficulties exist with this option
- 90-day plan enrollment option
 - Available to all AEIs
 - Election period starts when notice is sent
 - Elected coverage is then treated as COBRA coverage

Plan Enrollment Option

- Limitations on offered coverage
 - Premium must be less than current coverage
 - Coverage must be available to active employees
 - Exclusions: dental, vision, EAPs, Health FSA, most HRAs, on-site medical clinics

Notice Requirements



Notice Requirements

- List of required notices and forms
 - Subsidy notice and QB subsidy application
 - Special Election Notice and election form
 - Revised Election Notice for new qualifying events in 2009
 - QB notice of subsidy termination
 - Plan enrollment option notice (if applicable)

Notice Requirements

- Subsidy notice and QB application form
 - Forms establishing eligibility
 - Contact information
 - QB requirement to notify of loss of eligibility for subsidy and penalty
 - Right to reduced premium
 - Plan enrollment option (if applicable)



Notice Requirements

- Special Election Notice
 - Forms establishing eligibility
 - Contact information
 - Description of special election period
 - QB requirement to notify of loss of eligibility for subsidy and penalty
 - Right to reduced premium
 - Plan enrollment option (if applicable)
 - Must be sent by April 18, 2009

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Notice Requirements

- Revised Election notice for new qualifying events in 2009
 - Contact information
 - QB requirement to notify of loss of eligibility for subsidy and penalty
 - Right to reduced premium
 - Plan enrollment option (if applicable)

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Notice Requirements

- QB notice of subsidy termination
 - Subsidy can terminate without COBRA terminating (e.g., eligibility)
 - Issue with HIPAA special enrollment rights and spouses
 - 110 percent penalty
 - Exception for reasonable cause and not willful neglect

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Notice Requirements

- List of optional notices and documents
 - Revised invoice
 - Special notice for insignificant premium underpayment
 - Subsidy unavailability notice



Other Features





Other Features

- Department of Labor (DOL)
 - Model Notice by March 19, 2009
 - *Expedited* review of subsidy denial
- Treasury
 - Regulations and other guidance
 - Reporting on program to Congress
- DOL, Treasury, Health and Human Services (HHS): education

Other Features

- Characterization of subsidy
 - Not income or resources, for purposes of receiving governmental assistance
 - Not gross income, for federal income tax purposes

Making Work Pay Tax Credit

- Refundable tax credit
 - \$400 (individuals)
 - \$800 (married filing jointly)
- Calculated at 6.2% of earned income
- Phase-out
 - MAGI of \$75,000 (individuals)
 - MAGI of \$150,000 (married filing jointly)
- New tables for Publication 15, (Circular E), Employer's Tax Guide (April 1 due date)

Other Changes in ARRA





Other Changes in ARRA

- HIPAA
 - Privacy breach rules strengthened
 - Broader scope for Business Associate-like entities
 - HHS to issue regulations by August 16, 2009



Other Changes in ARRA

- Transportation Plans
 - Monthly limit for transit passes and vanpooling: \$120 to \$230 (parking)
 - 2010 limits: same as parking
 - Effective date: March 1, 2009
 - Expiration date: December 31, 2010



Infinisource Actions





Infinisource Actions

- COBRA clients
 - Send required notices
 - Verify QB subsidy applications with employer
 - Track subsidy payments (premium collection clients only)
 - Send optional notices and documents where applicable

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Infinisource Actions

- COBRA clients (cont.)
 - Create subsidy reports
 - Provide education through
 - Webinars
 - Seminars
 - News & Review and the Source
 - Other communications

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Infinisource Actions

- Payroll clients
 - Adjust payroll payments to IRS
 - Take care of revised Form 941 filings
 - Revise tax tables
 - Other related reporting tasks
- COBRA and Payroll clients
 - Coordinated efforts

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Action Plan



Action Plan

- Become familiar with ARRA rules
- Identify AEIs
- Develop or revise required notices and send them
- Track subsidy payments
- Deduct employer subsidy from payroll taxes
- Revise tax tables
- Handle required payroll reporting
- Respond to increased DOL scrutiny
- Consider updating plan-related information

Additional Resources





Additional Resources

- Text of ARRA
 - <http://thomas.loc.gov>
- News & Review article, seminars and webinars
 - www.infinisource.net
- Draft of revised Form 941
 - www.irs.gov



Final Thoughts

- ARRA is:
 - Difficult
 - Confusing
 - Complex
 - Time sensitive
 - Ambiguous in some places
- Infinisource is ready to help



Questions?

Please use chat function
on your screen.
